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Presidential Documents

Title 3—

The President

Proclamation 9426 of April 21, 2016

Earth Day, 2016

By the President of the United States of America

A Proclamation

On April 22, 1970, millions of people from every corner of our country joined in common cause to demand basic protections to safeguard our planet for future generations. The first Earth Day helped transform the ways we interact with the world around us, and it changed how we view our impact on the natural world—inspiring the creation of the Environmental Protection Agency and landmark legislation that protects the air we breathe, the water we drink, and the animals that live alongside us. Today, we resolve to build on the progress made in the nearly half-century since, and we reaffirm our commitment to leaving a clean, healthy Earth for our children and grandchildren.

Just as the people who came together on Earth Day in 1970 embraced their responsibility to preserve our planet, today we face a threat that also requires collective action. Human activity is disrupting the climate, and the challenge of combating climate change is one that will define the contours of our time. The effects of climate change are already evident in stronger storms, deeper droughts, more rapidly eroding soil, and longer wildfire seasons—and as of last year, 14 of the 15 warmest years on record have occurred since 2000. This urgent threat will worsen with each passing year unless we act now.

No country can solve this challenge alone. This Earth Day, nations from across the globe are gathering in New York to sign an agreement reached by nearly 200 countries in Paris late last year that establishes an enduring framework to reduce global carbon pollution and set the world on a path to a low-carbon future. Under the Paris Agreement, countries pledge to limit global warming to 2 degrees Celsius at most, and to pursue efforts to keep it below 1.5 degrees Celsius. Science tells us these levels will help prevent some of the most devastating impacts of climate change, including more frequent and extreme droughts, storms, fires, and floods, as well as catastrophic increases in sea level.

The Paris Agreement demonstrates what is possible when the world is united by a common concern and a shared purpose. The Agreement sets ambitious and specific targets for each nation that are necessary to solving the climate crisis. It applies to all countries, establishes meaningful accountability and reporting requirements, and brings countries back to the table every 5 years to grow their commitments as markets change and technologies improve. It also provides financing mechanisms so developing economies can move forward using clean energy, and it creates a collaborative process through which countries can establish and achieve their targets.

Key to reaching the Paris Agreement was principled American leadership. Over the past decade, the United States has cut our total carbon pollution more than any other nation on Earth. We are committed to upholding our responsibility in the global effort to combat climate change and protect our planet, and my Administration has taken action to reduce our carbon pollution and lead the world in transitioning to a clean energy future. For example, we have made significant investments in clean energy—since I took Office, the amount of electricity generated from wind energy has tripled, and the amount generated from solar energy has increased more than thirtyfold. Last year, I announced the first set of nationwide standards to end the limitless dumping of carbon pollution from our country's power plants. To prepare for the impacts of climate change that we cannot prevent, we are working with States and cities to help communities build climate-resilient infrastructure. And I have protected more public lands and waters than any other President in history—more than 265 million acres.

We each have a role to play in ensuring that we do not pass a world beyond repair on to our children. Everyone must do their part, and as long as we unite to protect the one planet we have, we can leave it in better shape for future generations. On Earth Day, let us all accept our individual responsibilities to care for the world we live in, and let us marshal our best efforts toward building a safer, more stable, and more sustainable world.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 22, 2016, as Earth Day. I encourage all Americans to participate in programs and activities that will protect our environment and contribute to a healthy, sustainable future.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of April, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2016–09826
Filed 4–25–16; 8:45 am]
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Rules and Regulations

Federal Register
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AN26

Prevailing Rate Systems; Abolishment of the Newburgh, NY, Appropriated Fund Federal Wage System Wage Area

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing a final rule to abolish the Newburgh, New York, appropriated fund Federal Wage System (FWS) wage area and redefine Orange County, NY, to the New York, NY, survey area; Dutchess County, NY, to the New York area of application; Delaware and Ulster Counties, NY, to the Albany-Schenectady-Troy, NY, area of application; and Sullivan County, NY, to the Scranton-Wilkes-Barre, Pennsylvania, area of application. These changes are based on a consensus recommendation of the Federal Prevailing Rate Advisory Committee (FPRAC) to best match the counties proposed for redefinition to nearby FWS survey areas.

DATES: *Effective date:* This rule is effective on April 26, 2016. *Applicability date:* This change applies on the first day of the first applicable pay period beginning on or after May 26, 2016.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, by telephone at (202) 606–2838 or by email at *pay-leave-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: On November 30, 2015, OPM issued a proposed rule (80 FR 74715) to abolish the Newburgh, NY, appropriated fund FWS wage area and redefine Orange County, NY, to the New York, NY, survey area; Dutchess County, NY, to the New York area of application; Delaware and Ulster Counties, NY, to the Albany-Schenectady-Troy, NY, area of application; and Sullivan County, NY, to the Scranton-Wilkes-Barre, PA, area of application. FPRAC, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, reviewed and recommended this change by consensus.

The 30-day comment period ended on December 30, 2015. OPM received one comment in support of the proposal and one comment regarding the effective date of the proposed change recommending retroactive applicability.

OPM defines wage areas through regulation in 5 CFR part 532. Changes in OPM's regulations are prospective, not retroactive, following an appropriate period for public comment. These changes will apply on the first day of the first applicable pay period beginning on or after 30 days following publication of the final regulations.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix A to Subpart B of Part 532—[Amended]

■ 2. Appendix A to subpart B of part 532 is amended for the State of New York by removing the entry for Newburgh.

■ 3. Appendix C to subpart B is amended by revising the wage area listing for the Albany-Schenectady-Troy, NY; New York, NY; and Scranton-Wilkes-Barre, PA, wage areas and removing the wage area listing for Newburgh, NY,

The revisions read as follows:

Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

* * * * *

NEW YORK

Albany-Schenectady-Troy

Survey Area

New York:
  Albany
  Montgomery
  Rensselaer
  Saratoga
  Schenectady

Area of Application. Survey area plus:

New York:
  Columbia
  Delaware
  Fulton
  Greene
  Schoharie
  Ulster
  Warren
  Washington

* * * * *

New York

Survey Area

New Jersey:
  Bergen
  Essex
  Hudson
  Middlesex
  Morris
  Passaic
  Somerset
  Union
New York:
  Bronx
  Kings
  Nassau
  New York
  Orange
  Queens
  Suffolk
  Westchester

Area of Application. Survey area plus:

New Jersey:
  Hunterdon
  Monmouth
  Ocean (Excluding the Fort Dix Military Reservation)
  Sussex
New York:
  Dutchess
  Putnam
  Richmond
  Rockland
Pennsylvania:

Pike

* * * * *

PENNSYLVANIA

Scranton-Wilkes-Barre

Survey Area

Pennsylvania:
  Lackawanna
  Luzerne
  Monroe

Area of Application. Survey area plus:

New York:
  Sullivan
Pennsylvania:
  Bradford
  Columbia
  Lycoming (Excluding Allenwood Federal Prison Camp)
  Montour
  Sullivan
  Susquehanna
  Wayne
  Wyoming

* * * * *

[FR Doc. 2016–09702 Filed 4–25–16; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 925 and 944

[Doc. No. AMS–FV–14–0100; FV15–925–1 FR]

Grapes Grown in a Designated Area of Southeastern California and Imported Table Grapes; Revision to the Administrative Rules and Regulations for Shipments to Charitable Organizations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements a recommendation from the California Desert Grape Administrative Committee (Committee) to revise the administrative rules and regulations of the Federal marketing order for grapes grown in a designated area of southeastern California (order) and the table grape import regulation. The Committee locally administers the order and is comprised of producers and handlers of grapes grown in the production area. This rule allows handlers and importers to ship grapes that do not meet the minimum grade and size quality requirements to be donated to charitable organizations. Any such grapes shall not be used for resale. The import regulation is authorized under section 608e of the Agricultural Marketing Agreement Act of 1937 and regulates the importation of table grapes into the United States. This final rule provides an additional outlet for grapes regulated under the order and assists USDA's efforts to reduce food waste in support of the U.S. Food Waste Challenge.

DATES: Effective May 26, 2016.

FOR FURTHER INFORMATION CONTACT: Kathie Notoro, Marketing Specialist, or Jeffrey Smutny, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Kathie.Notoro@ams.usda.gov* or *Jeffrey.Smutny@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Antoinette.Carter@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 925 (7 CFR part 925), regulating the handling of table grapes grown in a designated area of southeastern California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

This final rule is also issued under section 608e (8e) of the Act, which provides that whenever certain specified commodities, including table grapes, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

This final rule revises the order's administrative rules and regulations and the import regulations to allow handlers and importers to ship grapes that do not meet the minimum grade and size quality requirements to be donated to charitable organizations. Any such grapes shall not be used for resale. This action provides an additional outlet for grapes regulated under the order and supports USDA's efforts to reduce food waste under the U.S. Food Waste Challenge. The change in the import regulation is required under section 8e of the Act. These actions were unanimously recommended by the Committee following deliberations at a public meeting held on November 5, 2013, and a required new Food Donation Form (CDGAC Form No. 8) was subsequently approved at a meeting held on October 30, 2014.

Section 925.54 of the order provides that regulations in effect pursuant to § 925.41, § 925.52, or § 925.55 may be modified, suspended, or terminated to facilitate handling of grapes for purposes which may be recommended by the Committee and approved by the Secretary, and that rules, regulations, and safeguards shall be prescribed to prevent grapes handled under the provisions of this section from entering the channels of trade for other than the specific purposes authorized by this section.

This final rule amends § 925.304 of the administrative rules and regulations to provide an outlet for grapes failing to meet inspection and quality requirements. The final rule allows handlers to donate such grapes to charitable organizations. Any such grapes may not be used for resale.

Accordingly, to prohibit such donated grapes from being sold, and to prevent other unauthorized distribution of such shipments, the Committee developed CDGAC Form No. 8 to track the shipment of these grapes and verify their receipt by the intended charitable organization.

Section 925.60 of the order provides authority for the Committee, with the approval of USDA, to require handlers to furnish reports and information to the Committee as needed to enable the Committee to perform its duties under the order. This rule revises § 925.160(c) of the order's administrative rules and regulations. It requires handlers donating grapes to a charitable organization to ensure CDGAC Form No. 8 is completed, signed, and furnished to the Committee within two days of receipt by the intended charity.

These actions were unanimously recommended by the Committee following deliberations at a public meeting held on November 5, 2013, and the new form was subsequently approved at a meeting held on October 30, 2014. This action provides handlers and importers with an outlet for grapes that do not meet minimum quality requirements and supports the U.S. Secretary of Agriculture's initiative to reduce, recover, and recycle food in conjunction with the U.S. Food Waste Challenge.

Under section 8e of the Act, minimum grade, size, quality, and maturity requirements for table grapes imported into the United States are established under Table Grape Import Regulation 4 (7 CFR 944.503) (import regulation), and safeguard procedures for certain commodities exempt from these requirements are established under § 944.350. A change in the California Desert Grape Regulation 6, § 925.304, that allows table grapes to be donated to charitable organizations requires a corresponding change to the requirements for imported table grapes. Similar to the domestic industry, this action allows importers to donate table grapes to charitable organizations. Sections 944.350(a)(1) and 944.503(d) and (e) are revised accordingly.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 13 handlers of southeastern California table grapes who are subject to regulation under the marketing order and approximately 41 grape producers in the production area. In addition, there are about 135 importers of grapes. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

Ten of the 13 handlers subject to regulation have annual grape sales of less than $7,500,000 according to USDA Market News Service and Committee data. Based on information from the Committee and USDA's Market News Service, it is estimated that at least 10 of the 41 producers have annual receipts of less than $750,000. Thus, it may be concluded that a majority of grape handlers regulated under the order and about 10 of the producers could be classified as small entities under the SBA definitions.

Mexico, Chile, and Peru are the major countries that export table grapes to the United States. According to 2015 U.S. Census Bureau Trade Data, shipments of table grapes imported into the United States from Mexico totaled 18,004,062 18-pound lugs, from Chile totaled 41,974,714 18-pound lugs, and from Peru totaled 4,829,483 18-pound lugs. According to USDA's Foreign Agricultural Service data, the total value of table grapes imported into the United States in 2015 was $1,220,169,475. It is estimated that the average importer received $9.0 million in revenue from the sale of table grapes in 2015. Based on this information, it may be concluded that the average table grape importer is not classified as a small entity.

This final rule revises § 925.160 of the administrative rules and regulations under the order to require handlers to report to the Committee any grapes donated to charitable organizations. It also revises § 925.304 of the order's administrative rules and regulations to allow grapes that do not meet minimum quality requirements, yet are still desirable for human consumption, to be donated to charitable organizations. These changes allow the industry to participate in the U.S. Food Waste Challenge while ensuring that donated grapes are only distributed as authorized. Authority for permitting Special Purchase Shipments is provided in § 925.54. The requirement for handlers to report this information to the Committee is provided in § 925.60 of the order.

The Committee's proposal to authorize donation of grapes to charitable organizations was unanimously recommended at a public meeting on November 5, 2013. The Committee presented the Food Donation Form CDGAC No. 8 at its meeting on October 30, 2014, and subsequently submitted it to AMS for further approval. There is no direct financial effect on producers or handlers. Authority for the change to the table grape import regulation is provided in section 8e of the Act.

The Committee believes this change is beneficial to the industry and to the recipients of this donated food product. Very little impact is expected because the change in the regulatory requirements on handlers is minimal. There is one new form added to track and ensure that grapes not meeting the minimum grade and size requirements are donated to a charitable organization and not used for resale. This change does not contain any assessment or funding implications. There is no change in financial costs.

Alternatives to the proposal, including making no changes at this time, were considered. However, the Committee believes it is beneficial to allow these grapes to be donated to charitable organizations to reduce, recover, and recycle edible food product in support of the U.S. Food Waste Challenge.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0189, Generic OMB Fruit Crops. However, as a result of this action, CDGAC Form No. 8 has been submitted to OMB for approval and temporarily assigned OMB No. 0581–0290.

This action imposes minimal additional reporting and recordkeeping burden on domestic handlers who elect to donate grapes to charitable organizations using the CDGAC Form No. 8. It is estimated that the annual reporting burden for the industry will increase by 2.34 hours. All 14 handlers are in support of using this form to document the delivery of grapes to charitable organizations.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this final rule. Further, public comments received concerning the proposal did not address the initial regulatory flexibility analysis.

Under section 8e, whenever certain specified commodities are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestic commodity. Grapes are included under section 8e, and thus importers of table grapes are required to have such grapes inspected. A change that allows certain domestic table grapes to be donated to charitable organizations requires corresponding changes to the requirements for imported table grapes.

Importers already complete the Importer's Exempt Commodity Form (FV–6), which provides for certain authorized imported commodities to be diverted to alternative channels such as processing, animal feed, and charities. With this change, §§ 944.350(a)(1) and 944.503(d) and (e) are revised to allow for imported grapes to be donated for consumption by charitable organizations. This action does not change the format of the FV–6 form nor does it affect the burden. It is unlikely to impose additional reporting and recordkeeping burden on importers who elect to donate grapes to charitable organizations. Importers are not required to complete the CDGAC Form No. 8. CDGAC Form No. 8 is only intended to cover deliveries of domestically produced grapes to charitable organizations by domestic grape handlers.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes.

The Committee's meetings were widely publicized throughout the California table grape production area. All interested persons were invited to attend both meetings and encouraged to participate in Committee deliberations. Like all Committee meetings, the November 5, 2013, and the October 30, 2014, meetings were public, and all entities, both large and small, were encouraged to express their views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on October 1, 2015 (80 FR 59077). Copies of the rule were mailed or sent via email to all Committee members and grape handlers. The rule was made available through the internet by USDA and the Office of the Federal Register. A 60-day comment period ending November 30, 2015, was provided to allow interested persons to respond to the proposal.

Two comments were received during the comment period in favor of the proposal. One comment simply stated that the commenter liked the proposal. The other commenter was also in favor of the proposal and recommended that the donated grapes be "rechecked" by the receiving charitable organization to ensure edibility. Table grapes that do not meet minimum grade and size requirements can still be wholesome and safe to eat. The regulations contain safeguards to ensure that table grapes donated to charitable organizations are accepted by those organizations for their intended use (food distribution) through the use of the new CDGAC Form No. 8 (for domestic grapes) and Form FV–6 (for imported grapes). The Committee and USDA believe this change helps reduce food waste by providing an outlet for wholesome and edible table grapes. No comments were received on the proposed information collection.

Accordingly, no changes will be made to the rule as proposed, based on the comments received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this rule.

List of Subjects

7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth in the preamble, 7 CFR parts 925 and 944 are amended as follows:

■ 1. The authority citation for 7 CFR parts 925 and 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 925—TABLE GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

■ 2. Amend § 925.160 by adding paragraph (c) to read as follows:

§ 925.160 Reports.

* * * * *

(c) Handlers that donate grapes to charitable organizations pursuant to § 925.304(c) shall submit a completed Food Donation Form (CDGAC Form No. 8) to the Committee within 2 days of receipt by the charitable organization. Such form shall include the following: The name of the producer; the name of the handler; loading location and date; inspection location and date; Variety(s) Federal State Inspection Service (FSIS) Certificate number(s); lug weight (pounds); number of lugs; label; signature of person responsible for loading at handling facility; recipient charity name; how many lugs received; signature of responsible charity recipient and date received. Any such grapes shall not be used for resale.

■ 3. Amend § 925.304 by redesignating paragraphs (c), (d), (e), (f), and (g) as paragraphs (d), (e), (f), (g), and (h), respectively, and adding a new paragraph (c) to read as follows:

§ 925.304 California Desert Grape Regulation 6.

* * * * *

(c) *Donation to charitable organizations.* Handlers of grapes failing to meet the requirements of § 925.55 and paragraph (a) of this section may donate such grapes to charitable organizations. Any such grapes shall not be used for resale. Handlers donating such grapes to a charitable organization shall submit a completed Food Donation Form, CDGAC Form No. 8, as required in § 925.160(c), within 2 days of receipt by the intended charity.

* * * * *

PART 944—FRUITS; IMPORT REGULATIONS

■ 4. In § 944.350, revise paragraph (a)(1) to read as follows:

§ 944.350 Safeguard procedures for avocados, grapefruit, kiwifruit, olives, oranges, prune variety plums (fresh prunes), and table grapes, exempt from grade, size, quality, and maturity requirements.

(a) * * *

(1) Avocados, grapefruit, kiwifruit, olives, oranges, prune variety plums (fresh prunes) and table grapes for consumption by charitable institutions or distribution by relief agencies;

* * * * *

■ 5. In § 944.503, revise paragraphs (d) and (e) to read as follows:

§ 944.503 Table Grape Import Regulation 4.

* * * * *

(d) Any lot or portion thereof which fails to meet the import requirements, and is not being imported for purposes of processing or donation to charitable organizations, prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

(e) The grade, size, quality, and maturity requirements of this section shall not be applicable to grapes imported for processing or donation to charitable organizations, but shall be subject to the safeguard provisions contained in § 944.350.

Dated: April 20, 2016.

Elanor Starmer,

Administrator, Agricultural Marketing Service.

[FR Doc. 2016–09620 Filed 4–25–16; 8:45 am]

BILLING CODE 6410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–6547; Directorate Identifier 2014–NM–129–AD; Amendment 39–18490; AD 2016–08–14]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2014–03–14 for all Airbus Model A330–200 and –300 series airplanes, and Model A340–200, –300, –500, and –600 series airplanes. AD 2014–03–14 required removing bulb-type maintenance lights; installing a drain mast on certain airplanes; and installing muffs on connecting bleed elements on certain airplanes. For certain Model A340–200 and –300 series airplanes, this new AD also requires replacing certain insulation sleeves with new insulation sleeves. This AD results from fuel system reviews conducted by the airplane manufacturer. We are issuing this AD to prevent ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: This AD is effective May 31, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 31, 2016.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of March 26, 2014 (79 FR 9382, February 19, 2014).

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–6547.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–6547; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2014–03–14, Amendment 39–17752 (79 FR 9382, February 19, 2014) ("AD 2014–03–14"). AD 2014–03–14 applied to all Airbus Model A330–200 and –300 series airplanes, and Model A340–200, –300, –500, and –600 series airplanes. The NPRM published in the **Federal Register** on December 11, 2015 (80 FR 76875) ("the NPRM"). The NPRM was prompted by fuel system reviews conducted by the airplane manufacturer. The NPRM proposed to continue to require removing bulb-type maintenance lights; installing a drain mast on certain airplanes; and installing muffs on connecting bleed elements on certain airplanes. The NPRM also proposed to require, for certain Model A340–200 and –300 series airplanes, replacing certain insulation sleeves with new insulation sleeves. We are issuing this AD to prevent ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0148, dated June 13, 2014 (referred to after this the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for all Airbus Model A330–200 and –300 series airplanes, and Model A340–200, –300, –500, and –600 series airplanes. The MCAI states:

> [Subsequent to accidents involving Fuel Tank Systems in flight and on ground] * * *, the FAA published Special Federal Aviation Regulation (SFAR) 88 [(66 FR 23086, May 7, 2001)], and the Joint Aviation Authorities (JAA) published Interim Policy INT/POL/25/12.
>
> In response to these regulations, a global design review conducted by Airbus on the A330 and A340 type design Section 19, which is a flammable fluid leakage zone and a zone adjacent to a fuel tank, highlighted potential deviations. The specific identified cases were that in-flight fuel drainage is insufficient on A340–500/–600 aeroplanes, maintenance lights are not qualified explosion-proof, and hot surfaces may exist on bleed systems during normal/failure operations.

> This condition, if not corrected, in combination with a fuel leak generating flammable vapours in the area, could result in a fuel tank explosion and consequent loss of the aeroplane.
>
> To address this unsafe condition, Airbus developed various modifications of the aeroplane, to be embodied in service.
>
> Consequently, EASA issued AD 2013–0033 [*http://ad.easa.europa.eu/blob/easa_ad_2013-0033_superseded.pdf/AD_2013-0033_1*, which corresponds to FAA AD 2014–03–14, Amendment 39–17752 (79 FR 9382, February 19, 2014)] to require removal of bulb type maintenance lights for all aeroplanes, installation of a drain mast between Frame (FR) 80 and FR83 for A340–500/–600 aeroplanes, and installation of muffs on connecting bleed elements to minimize hot surfaces on A330 and A340–200/–300 aeroplanes.
>
> Since that [EASA] AD was issued, it was reported that, for A340–200/–300 aeroplanes, accomplishment instructions in the applicable Airbus Service Bulletins (SB) for aeroplanes in Configurations 002 and 005 were detailed in Configuration 003 and, conversely, accomplishment instructions for aeroplane[s] in Configuration 003 were detailed in Configurations 002 and 005. This can lead to incorrect installation of some insulation sleeves on the Auxiliary Power Unit (APU) Air Bleed Ducts between Frame 83 and 84 for configurations 002, 003 and 005 as per Airbus SB A340–36–4035 at original issue. Prompted by this finding, Airbus revised the affected SB with additional work required for aeroplanes included in configurations 002, 003 and 005 that were modified using the original issue of the SB.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2013–0033, which is superseded, incorporates reference to the corrected Airbus SB A340–36–4035 Revision 01 and requires the additional work as specified in Airbus SB A340–36–4035 Revision 01 for aeroplanes already modified per the original SB A340–36–4035.

The additional work is replacing the insulation sleeves between FR83 and FR84 with new insulation sleeves. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–6547.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Change Made To This Final Rule: Updated Service Information

Airbus has issued Service Bulletin A330–36–3038, Revision 01, dated May 11, 2015. The additional work specified in this service information is minimal and consists of modifying the routing of a harness. This additional work is not required for airplanes on which the actions previously required by paragraph (h) of AD 2014–03–14 have been done before the effective date of this AD. Paragraph (h) of this AD retains the requirements of paragraph (h) of AD 2014–03–14. We have revised paragraph (h)(1) of this AD to specify Airbus Service Bulletin A330–36–3038, Revision 01, dated May 11, 2015, as an appropriate source of service information.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD with the change described previously and minor editorial changes. We have determined that these changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service bulletins.

- Airbus Service Bulletin A330–33–3041, Revision 02, dated November 7, 2013, which describes procedures for removing bulb-type maintenance lights.
- Airbus Service Bulletin A330–36–3037, Revision 02, including Appendix 01, dated April 7, 2014, which describes procedures for modifying the bleed leak detection loop of the auxiliary power unit (APU).
- Airbus Service Bulletin A330–36–3038, Revision 01, dated May 11, 2015, which describes procedures for bleed leak detection loop modification of the APU.
- Airbus Service Bulletin A340–33–4026, Revision 02, dated November 7, 2013, which describes procedures for removing bulb-type maintenance lights.
- Airbus Service Bulletin A340–36–4033, Revision 02, including Appendix 01, dated May 19, 2014, which describes procedures for bleed leak detection loop modification of the APU.
- Airbus Service Bulletin A340–36–4035, including Appendix 01, dated September 18, 2012, which describes procedures for installing muffs on connecting bleed elements on certain airplanes.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 43 Model A330 series airplanes of U.S. registry. There are no Model A340 airplanes registered in the U.S.

The actions required by AD 2014–03–14, and retained in this AD take about 21 work-hours per product, at an average labor rate of $85 per work-hour. Required parts cost about $5,219 per product. Based on these figures, the estimated cost of the actions that were required by AD 2014–03–14 is $7,004 per product.

We also estimate that it will take about 6 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $279 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $33,927, or $789 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2014–03–14, Amendment 39–17752 (79 FR 9382, February 19, 2014), and adding the following new AD:

2016–08–14 Airbus: Amendment 39–18490. Docket No. FAA–2015–6547; Directorate Identifier 2014–NM–129–AD.

(a) Effective Date

This AD is effective May 31, 2016.

(b) Affected ADs

This AD replaces AD 2014–03–14, Amendment 39–17752 (79 FR 9382, February 19, 2014) ("AD 2014–03–14").

(c) Applicability

This AD applies to the Airbus airplanes, certificated in any category, specified in paragraphs (c)(1) and (c)(2) of this AD, all manufacturer serial numbers.

(1) Airbus Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(2) Airbus Model A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 26, Fire protection; 33, Lights; 36, Pneumatic; 53, Fuselage.

(e) Reason

This AD results from fuel system reviews conducted by the airplane manufacturer. We are issuing this AD to prevent ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Maintenance Light Removal, With New Service Information

This paragraph restates the requirements of paragraph (g) of AD 2014–03–14, with new service information. Except for airplanes on which Airbus Modification 56739 has been incorporated in production: Within 26 months after March 26, 2014 (the effective date of AD 2014–03–14), remove the maintenance lights, in accordance with the Accomplishment Instructions of the applicable Airbus service information specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD.

(1) Airbus Mandatory Service Bulletin A330–33–3041, Revision 01, dated July 10, 2012; or Airbus Service Bulletin A330–33–3041, Revision 02, dated November 7, 2013 (for Model A330 series airplanes). As of the effective date of this AD, use only Airbus Service Bulletin A330–33–3041, Revision 02, dated November 7, 2013, for the actions required by paragraph (g) of this AD.

(2) Airbus Mandatory Service Bulletin A340–33–4026, Revision 01, dated July 10, 2012; or Airbus Service Bulletin A340–33–4026, Revision 02, dated November 7, 2013 (for Model A340–200 and –300 series airplanes). As of the effective date of this AD, use only Airbus Service Bulletin A340–33–4026, Revision 02, dated November 7, 2013, for the actions required by paragraph (g) of this AD.

(3) Airbus Mandatory Service Bulletin A340–33–5006, dated January 3, 2012 (for Model A340–500 and –600 series airplanes).

Note 1 to paragraph (g) of this AD: For Model A340–500 and –600 series airplanes, Airbus has issued Airbus Service Bulletin A340–33–5007 to introduce halogen-type lights, which are qualified as explosion-proof, and that can be installed (at operators' discretion) after removal of the non-explosion-proof lights required by paragraph (g) of this AD. For Model A330 series airplanes and Model A340–200 and –300 series airplanes, Airbus has issued Airbus Service Bulletins A330–33–3042 and A340–33–4027 for the installation of similar lights.

(h) Retained Insulation Muff Installation, With New Service Information

This paragraph restates the requirements of paragraph (h) of AD 2014–03–14, with new service information. For Model A330–200 and –300 series airplanes, and Model A340–200 and –300 series airplanes, except those airplanes on which Airbus Modification 52260 has been incorporated in production: Within 26 months after March 26, 2014 (the effective date of AD 2014–03–14), install insulation muffs on the connecting auxiliary power unit (APU) bleed air duct, in accordance with the Accomplishment Instructions of the applicable Airbus service information specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD.

(1) Airbus Service Bulletin A330–36–3038, dated January 16, 2012; or Airbus Service Bulletin A330–36–3038, Revision 01, dated May 11, 2015; for Model A330 series airplanes on which Airbus Service Bulletin A330–36–3032 has been incorporated. As of the effective date of this AD, use only Airbus Service Bulletin A330–36–3038, Revision 01, dated May 11, 2015.

(2) Airbus Mandatory Service Bulletin A330–36–3040, Revision 01, dated November 26, 2012, for Model A330 series airplanes on which Airbus Service Bulletin A330–36–3032 has not been incorporated.

(3) Airbus Mandatory Service Bulletin A340–36–4035, Revision 01, dated September 24, 2013, for Model A340 series airplanes.

(i) Retained Alternative Action to Paragraph (h) of This AD, With New Service Information

This paragraph restates the alternative action specified in paragraph (i) of AD 2014–03–14, with new service information. For Model A330 series airplanes on which the modification specified in Airbus Service Bulletin A330–36–3032 has not been incorporated, and for Model A340 series airplanes: Doing the bleed leak detection loop modification of the APU, in accordance with the Accomplishment Instructions of the applicable Airbus service information specified in paragraphs (i)(1) and (i)(2) of this AD, is an acceptable alternative to the actions required by paragraph (h) of this AD, provided the modification is accomplished within 26 months after March 26, 2014 (the effective date of AD 2014–03–14).

(1) Airbus Service Bulletin A330–36–3037, Revision 02, including Appendix 01, dated April 7, 2014.

(2) Airbus Service Bulletin A340–36–4033, Revision 02, including Appendix 01, dated May 19, 2014.

(j) Retained Drain Mast Installation, With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2014–03–14, with no changes. For Model A340–500 and –600 series airplanes, except those on which Airbus Modification 54636 or 54637 has been incorporated in production: Within 26 months after March 26, 2014 (the effective date of AD 2014–03–14), install a drain mast between frame (FR) 80 and FR83, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A340–53–5031, Revision 02, dated August 3, 2011.

(k) New Requirement of This AD: Replacement of Certain Insulation Sleeves

For Model A340 series airplanes in configurations 002, 003, and 005, as described in Airbus Service Bulletin A340–36–4035, including Appendix 01, dated September 18, 2012, that have been modified before the effective date of this AD as specified in Airbus Service Bulletin A340–36–4035, including Appendix 01, dated September 18, 2012: Within 14 months after the effective date of this AD, replace the insulation sleeves between FR83 and FR84 with new insulation sleeves, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340–36–4035, Revision 01, dated September 24, 2013.

(l) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before March 26, 2014 (the effective date of AD 2014–03–14), using Airbus Service Bulletin A330–33–

3041, dated January 3, 2012; or Airbus Service Bulletin A340–33–4026, dated January 3, 2012; as applicable. This service information is not incorporated by reference in this AD.

(2) This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before March 26, 2014 (the effective date of AD 2014–03–14), using Airbus Service Bulletin A330–36–3040, dated September 18, 2012. This service information is not incorporated by reference in this AD.

(3) For Model A340 series airplanes in configurations 001 and 004, as described in Airbus Service Bulletin A340–36–4035, including Appendix 01, dated September 18, 2012: This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A340–36–4035, including Appendix 01, dated September 18, 2012.

(4) This paragraph provides credit for actions required by paragraph (j) of this AD, if those actions were performed before March 26, 2014 (the effective date of AD 2014–03–14), using Airbus Service Bulletin A340–53–5031, dated July 31, 2006; or Airbus Service Bulletin A340–53–5031, Revision 01, dated January 10, 2008; as applicable. This service information is not incorporated by reference in this AD.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(ii) AMOCs approved previously for paragraphs (g) and (h) of AD 2014–03–14 are approved as AMOCs for the corresponding provisions of paragraphs (g) and (h) of this AD.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0148, dated June 13, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–6547.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (o)(5) and (o)(6) of this AD.

(o) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following service information was approved for IBR on May 31, 2016.

(i) Airbus Service Bulletin A330–33–3041, Revision 02, dated November 7, 2013.

(ii) Airbus Service Bulletin A330–36–3037, Revision 02, including Appendix 01, dated April 7, 2014.

(iii) Airbus Service Bulletin A330–36–3038, Revision 01, dated May 11, 2015.

(iv) Airbus Service Bulletin A340–33–4026, Revision 02, dated November 7, 2013.

(v) Airbus Service Bulletin A340–36–4033, Revision 02, including Appendix 01, dated May 19, 2014.

(vi) Airbus Service Bulletin A340–36–4035, including Appendix 01, dated September 18, 2012.

(4) The following service information was approved for IBR on March 26, 2014 79 FR 9382, February 19, 2014).

(i) Airbus Mandatory Service Bulletin A330–33–3041, Revision 01, dated July 10, 2012.

(ii) Airbus Mandatory Service Bulletin A330–36–3040, Revision 01, dated November 26, 2012.

(iii) Airbus Mandatory Service Bulletin A340–33–4026, Revision 01, dated July 10, 2012.

(iv) Airbus Mandatory Service Bulletin A340–33–5006, dated January 3, 2012.

(v) Airbus Mandatory Service Bulletin A340–36–4035, Revision 01, dated September 24, 2013.

(vi) Airbus Mandatory Service Bulletin A340–53–5031, Revision 02, dated August 3, 2011.

(5) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.*

(6) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on April 8, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–08951 Filed 4–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–7532; Directorate Identifier 2015–NM–069–AD; Amendment 39–18477; AD 2016–08–01]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Dassault Aviation Model FALCON 7X airplanes. This AD was prompted by reports of multiple cases of ram air turbine (RAT) blade damage. This AD requires deployment of the RAT, replacement of the RAT placard with a new RAT placard, and re-identification of the RAT. We are issuing this AD to prevent blade damage to the RAT, which could prevent RAT deployment in flight during an emergency, possibly resulting in reduced control of the airplane.

DATES: This AD is effective May 31, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 31, 2016.

ADDRESSES: For service information identified in this final rule, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, NJ 07606; telephone: 201–440–6700; Internet: *http://www.dassaultfalcon.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–7532.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–7532; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tom Rodriquez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1137; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Dassault Aviation Model FALCON 7X airplanes. The NPRM published in the **Federal Register** on January 4, 2016 (81 FR 28) (“the NPRM”). The NPRM was prompted by reports of multiple cases of ram air turbine (RAT) blade damage. The NPRM proposed to require deployment of the RAT, replacement of the RAT placard with a new RAT placard, and re-identification of the RAT. We are issuing this AD to prevent blade damage to the RAT, which could prevent RAT deployment in flight during an emergency, possibly resulting in reduced control of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2015–0076, dated May 6, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for all Dassault Aviation Model FALCON 7X airplanes. The MCAI states:

> A few cases of Ram Air Turbine (RAT) blade damage have been reported during maintenance operations. This kind of damage is caused by an incorrect locking of RAT rotor, due to improper positioning of blades at beginning of retraction, and locking check during retraction, which likely occurs during stowage of the RAT, after its deployment for maintenance purposes.
>
> This condition, if not corrected, could prevent RAT deployment in flight during an emergency, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, Dassault Aviation issued Service Bulletin (SB) 7X–289, which provides instructions to smoothly deploy the RAT and install an improved placard to ensure proper RAT stowage/retraction after maintenance.
>
> For the reasons described above, this [EASA] AD requires replacement of the existing RAT placard with a new placard and RAT re-identification. This [EASA] AD also provides conditions for installation of a RAT on an aeroplane.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–7532.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

We reviewed Dassault Service Bulletin 7X–289, dated January 21, 2015. The service information describes procedures for deployment of the RAT, replacement of the RAT placard with a new RAT placard, and re-identification of the RAT. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 45 airplanes of U.S. registry.

We also estimate that it will take about 4 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $121 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $20,745, or $461 per product.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. “Subtitle VII: Aviation Programs,” describes in more detail the scope of the Agency’s authority.

We are issuing this rulemaking under the authority described in “Subtitle VII, Part A, Subpart III, Section 44701: General requirements.” Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a “significant regulatory action” under Executive Order 12866;
2. Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–08–01 Dassault Aviation: Amendment 39–18477. Docket No. FAA–2015–7532; Directorate Identifier 2015–NM–069–AD.

(a) Effective Date

This AD is effective May 31, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 7X airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 24, Electrical power.

(e) Reason

This AD was prompted by reports of multiple cases of ram air turbine (RAT) blade damage. We are issuing this AD to prevent blade damage to the RAT, which could prevent RAT deployment in flight during an emergency, possibly resulting in reduced control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Placard Replacement

Except as provided by paragraph (h) of this AD: Within 28 months or during the next accomplishment of the RAT functional test, whichever occurs first after the effective date of this AD, deploy the RAT, replace the RAT placard with a new RAT placard, and re-identify the RAT part number (P/N) 1705673A to a part number identified in paragraph (g)(1) or (g)(2) of this AD, in accordance with the Accomplishment Instructions of Dassault Service Bulletin 7X–289, dated January 21, 2015.

(1) Change P/N 1705673A to P/N 1705673B.

(2) Change P/N 1705673A to a part number that is approved as a replacement for P/N 1705673A and approved as part of the type design by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Dassault Aviation's EASA Design Organization Approval (DOA); after the issue date of Dassault Service Bulletin 7X–289, dated January 21, 2015.

(h) Exception to Paragraph (g) of This AD

An airplane on which Dassault Aviation Modification M1428 has been embodied in production is not affected by the requirements of paragraph (g) of this AD, provided no RAT P/N 1705673A has been installed on that airplane since first flight.

(i) Parts Installation Prohibition

As of the effective date of this AD, no person may install a RAT having P/N 1705673A, on any airplane.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriquez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1137; fax: 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2015–0076, dated May 6, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–7532.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Dassault Service Bulletin 7X–289, dated January 21, 2015.

(ii) Reserved.

(3) For service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, NJ 07606; telephone: 201–440–6700; Internet: *http://www.dassaultfalcon.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on March 31, 2016.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–08952 Filed 4–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Part 725

RIN 1240–AA10

Black Lung Benefits Act: Disclosure of Medical Information and Payment of Benefits

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Final rule.

SUMMARY: This final rule revises the regulations implementing the Black Lung Benefits Act to address certain procedural issues that have arisen in claim adjudications and other technical issues. To protect miners' health, assist parties without adequate legal representation, and enhance the accuracy of benefits entitlement decisions, the final rule includes a new provision that requires all parties to exchange with each other any medical information developed in connection with a claim for benefits and allows for the imposition of sanctions for failure to comply with the rule. The final rule also clarifies a liable coal mine operator's obligation to pay effective benefits awards by requiring payment before allowing the operator to challenge the

award through the Act's modification procedures. In addition, the final rule resolves an ambiguity regarding how physicians' follow-up reports should be considered under the evidence-limiting rules, and allows the Department to fully participate in claims adjudications after the liable coal mine operator stops participating because of adverse financial developments, such as bankruptcy or insolvency.

DATES: This rule is effective May 26, 2016.

FOR FURTHER INFORMATION CONTACT: Michael Chance, Director, Division of Coal Mine Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, 200 Constitution Avenue NW., Suite N–3520, Washington, DC 20210. Telephone: 1–800–347–2502. This is a toll-free number. TTY/TDD callers may dial toll-free 1–800–877–8339 for further information.

SUPPLEMENTARY INFORMATION:

I. Background of This Rulemaking

The Black Lung Benefits Act (BLBA), 30 U.S.C. 901–944, provides for the payment of benefits to coal miners and certain of their dependent survivors on account of total disability or death due to coal workers' pneumoconiosis. 30 U.S.C. 901(a); *Usery* v. *Turner Elkhorn Mining Co.*, 428 U.S. 1, 8 (1976). Benefits are paid either by an individual coal mine operator that employed the coal miner (or its insurance carrier), or the Black Lung Disability Trust Fund (Trust Fund). *Dir., OWCP* v. *Bivens*, 757 F.2d 781, 783 (6th Cir. 1985).

On April 29, 2015, the Department proposed revising the BLBA's implementing regulations to resolve several procedural issues that had arisen in claims administration and adjudication, and make other technical changes. 80 FR 23743–54 (Apr. 29, 2015) (NPRM). Each of these issues and the comments received in response to the proposed rule are fully addressed in the Section-By-Section Explanation below.

II. Statutory Authority

Congress granted the Secretary broad rulemaking authority to administer the BLBA: "The Secretary of Labor [is] authorized to issue such regulations as [he] deems appropriate to carry out the provisions of this subchapter." 30 U.S.C. 936(a). *See, e.g., Elm Grove Coal Co.* v. *Dir., OWCP*, 480 F.3d 278, 293 (4th Cir. 2007) ("[T]he Secretary has been vested with broad authority to implement the mandate of the Black Lung Act."); *Caney Creek Coal Co.* v. *Satterfield*, 150 F.3d 568, 572 (6th Cir. 1998) (describing 30 U.S.C. 936(a) as conferring "a broad grant of congressional authority" to promulgate regulations); *Labelle Processing Co.* v. *Swarrow*, 72 F.3d 308, 312 (3d Cir. 1995) ("Congress granted the Secretary of Labor broad authority to promulgate regulations under the BLBA."); *Harman Mining Co.* v. *Dir., OWCP*, 826 F.2d 1388, 1390 (4th Cir. 1987) (same); *see also Dir., OWCP* v. *Mangifest*, 826 F.2d 1318, 1330 n.21 (3d Cir. 1987) (regulation was an appropriate exercise of the Secretary's general authority where not precluded by specific statutory section). Congress further emphasized the Secretary's important role in the BLBA's administration by including many other grants of regulatory authority throughout the statute. *See* 30 U.S.C. 902(f)(1)(D), 921(b), 923(b), 932(a), 932(h), 936(c), and 942. Two of these supplementary grants of regulatory authority, sections 923(b) and 932(a), are particularly important to this rulemaking.

Section 923(b), which incorporates section 205(a) of the Social Security Act, 30 U.S.C. 923(b) (incorporating 42 U.S.C. 405(a)), gives the Department wide latitude in regulating evidentiary matters in claims adjudications. Specifically, section 205(a) grants the Secretary authority to "adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder." *Id.* As explained in the NPRM, 80 FR 23746, section 205 has been interpreted as conferring "exceptionally broad" power to regulate. *See Heckler* v. *Campbell*, 461 U.S. 458, 466 (1983), quoting *Schweiker* v. *Gray Panthers*, 453 U.S. 34, 43 (1981).

Section 932(a), 30 U.S.C. 932(a), grants similarly strong regulatory authority to the Secretary. This section incorporates various provisions from the Longshore and Harbor Workers' Compensation Act (Longshore Act), 33 U.S.C. 901–950, but further authorizes the Secretary to "prescribe in the **Federal Register** such additional provisions [] as he deems necessary" and specifies that the incorporated Longshore Act sections apply "except as otherwise provided . . . by regulations of the Secretary." 30 U.S.C. 932(a); *see Dir., OWCP* v. *Nat'l Mines Corp.*, 554 F.2d 1267, 1273–74 (4th Cir. 1977) (holding that Congress empowered the Secretary to depart from specific requirements of the Longshore Act).

One of the incorporated Longshore Act provisions, section 23(a), also provides important statutory authority for this rulemaking. 33 U.S.C. 923(a), as incorporated by 30 U.S.C. 932(a). This section relieves the Department from traditional rules of procedure or evidence in claims determinations and plainly elevates truth seeking over litigation gamesmanship: "the [adjudication officer] shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by this chapter; but may make such investigation or inquiry or conduct such hearing in such manner as to best ascertain the rights of the parties." *Id.*

III. Discussion of Significant Comments

The Department received 18 comments, some joined by multiple individuals or entities, in response to the NPRM. Commenters included miners, benefits claimants, their representatives, a labor union, a coal mine company, an insurance company, industry and insurance trade associations, and one member of Congress. Five of the comments expressed general concerns about the black lung program and the difficulties miners face in obtaining benefits. The remaining comments addressed the proposed rules more specifically and are discussed below in the Section-by-Section Explanation. The Department appreciates these comments and has made several revisions to the final rule in response.

The Department received no comments on the proposed revisions replacing the word "shall" with the word "must" or other appropriate plain-language phrase throughout the amended regulatory sections. *See generally* 80 FR 23743–44. Accordingly, the Department has retained those revisions in the final rule.

Section-by-Section Explanation

20 CFR 725.310 Modification of Awards and Denials

(a) Section 725.310 implements section 22 of the Longshore Act, 33 U.S.C. 922, as incorporated into the BLBA by 30 U.S.C. 932(a). Section 22 generally allows for the modification of claim decisions based on a mistake of fact or a change in conditions up to one year after the last payment of benefits or denial of a claim.

The Department proposed adding a new paragraph (e) to this regulation to ensure that responsible operators (and their insurance carriers) fully discharge their payment obligations while pursuing modification of a benefits award. 80 FR 23744–45, 23751. In the absence of a Benefits Review Board or court-ordered stay of payments, the proposed rule required that an operator's request to modify an effective award be denied unless the operator proved that it had complied with all of its payment obligations under that award and any other currently effective award (such as a medical benefits award) in the claim. The Department noted that an "effective" award is generally an uncontested award entered by a district director or any award entered by an administrative law judge or higher tribunal. 80 FR 23744; 20 CFR 725.502(a). The Department proposed the rule both to ensure that claimants are fully compensated and to protect the Trust Fund, which must pay effective awards when an operator fails to do so. 80 FR 23744–45.

(b) The Department received several comments addressing proposed paragraph (e). Four commenters expressed support for the proposal. Noting that modification proceedings can add years to the claims process and citing examples, one commenter praised this rule as pragmatic because it allows operators with legitimate defenses to pursue modification while reducing the incentive for operators to improperly use modification as a means to delay payment of benefits. Another commenter praised the proposal as clearly consistent with the Act and agreed with the Department's position that the Trust Fund should not be burdened with paying benefits on behalf of operators during the modification period. Two additional commenters expressed general support for the rule.

Six commenters opposed the rule, arguing either that the Department should withdraw the rule completely or that it should be revised. Several of these commenters argue that the proposed rule should be withdrawn because it is unauthorized by law, unfair, and unnecessary. These commenters also argue that the rule will effectively deprive operators of the opportunity to challenge medical expenses and attorneys' fees.

The Department has fully considered the comments received and determined that the rule should not be withdrawn. The Department has, however, revised the final rule to address the commenters' concerns regarding medical expenses and attorneys' fees.

(c) As explained in the NPRM, 80 FR 23744–45, Congress established the Trust Fund in 1977 to serve as a secondary payor when there is no operator that may be held liable or when the liable operator defaults on its payment obligations. Congress envisioned the Trust Fund as a payor of last resort, and intended to "ensure that individual coal operators rather than the trust fund bear the liability for claims arising out of such operators' mines to the maximum extent feasible." S. Rep. No. 95–209 at 9, reprinted in Committee on Education and Labor, House of Representatives, 96th Cong., Black Lung Benefits Act and Black Lung Benefits Revenue Act of 1977 at 612 (Comm. Print) (1979).

Yet operators were not always meeting their payment obligations under effective benefit awards, relying instead on the Trust Fund to pay benefits while they appealed or sought modification. The Department attempted to resolve any confusion on this issue when it promulgated extensive revisions to the black lung program regulations in 2000. 65 FR 80009–11 (Dec. 20, 2000). In that rulemaking, the Department revised § 725.502 with the specific intent of clarifying when a benefits award was "effective," and thus payable by the liable operator. 62 FR 3366 (Jan. 22, 1997) (with revisions to § 725.502, "[t]he Department hopes to increase operator compliance with effective awards."); 65 FR 80009 (Dec. 20, 2000) ("The most important changes [to § 725.502] were designed to make clear to responsible operators their obligations under the terms of an effective award of benefits even though the claim might still be in litigation."). The Department noted that operators, contrary to Congressional intent, routinely used the Trust Fund as a surrogate to "reduce the risk of losing interim payments in the event the award is reversed." 64 FR 55000 (Oct. 8, 1999). The Department clearly expressed its position that operators, and not the Trust Fund, are required to pay benefits pursuant to an effective award notwithstanding the pendency of a modification petition. 64 FR 55000–01.

The Department's efforts in 2000, however, have not remedied the problem. Operators often do not meet their legal obligation to pay benefits while challenging effective awards, whether by appeal to the Benefits Review Board or appropriate court, or by seeking modification. Cases like those cited in the NPRM—including *Crowe ex rel. Crowe* v. *Zeigler Coal Co.*, 646 F.3d 435, 445 (7th Cir. 2011), and *Hudson* v. *Pine Ridge Coal Co., LLC*, No. 2:11–00248, 2012 WL 386736, *5 (S.D. W.Va. Feb. 6, 2012)—continue to arise. *See, e.g., Bull Creek Coal Corp.* v. *Dir., OWCP*, 6th Cir. No. 14–3573, operator's appeal dismissed Nov. 6, 2014 (in post-2000 claim, operator sought modification after appealing effective benefits award to the court, but later moved to dismiss its appeal; modification petition remains pending and the Department's records indicate that the operator has not paid pursuant to the award); *Dalton* v. *Dir., OWCP*, 738 F.3d 779 (7th Cir. 2013) (in post-2000 claim, Department's records indicate operator delayed Trust Fund reimbursement for approximately ten years while pursuing appeals of initial awards and a later modification petition). Indeed, the Department has identified more than nine hundred claims in which the Trust Fund has paid effective benefits awards in the operator's stead since October 1, 2010. And, as explained in the NPRM, the existing enforcement mechanisms are difficult to use in these circumstances. 80 FR 23744–45. Thus, the Trust Fund is routinely forced to pay interim benefits to entitled claimants and bear the risk that the benefits award was in error, contrary to Congress' intent. At the time of the 2000 rulemaking, the Trust Fund was indebted to the U.S. Treasury in the amount of $5.487 billion. As of the end of fiscal year 2012 and after a restructuring, which included a one-time non-refundable allocation of $6.497 billion to the Fund, the Trust Fund's debt remained over $6 billion. *See* Emergency Economic Stabilization Act of 2008, Public Law 110–343, section 113 (Oct. 3, 2008); OWCP Annual Report to Congress for FY 2012 at 63.

Thus, the rule addresses a longstanding problem; it is not, as some commenters suggest, simply a reaction to the concerns Judge Hamilton expressed in his *Crowe* concurring opinion over this type of operator misconduct. The rule is intended to curb an unlawful practice. It will prevent operators from indefinitely delaying payments to claimants or reimbursement of the Trust Fund for payments made on the operator's behalf. As a result, the rule will prevent operators from taking advantage of the safeguards built into the Act to protect claimants, mainly the payment of benefits from the Trust Fund when the liable operator fails to pay. The Department has a fiduciary duty to protect the Trust Fund from such misconduct. 26 U.S.C. 9501(a)(2); *see also Marfork Coal Co.* v. *Weis*, 251 F. App'x 229, 233 (4th Cir. 2007) ("The OWCP Director, who acts as trustee for the Black Lung Benefits Fund, is responsible for conserving its assets."); *Boggs* v. *Falcon Coal Co.*, 17 Black Lung Rep. 1–62, 1–65 (Ben. Rev. Bd. 1992) (noting that the Director is a trustee of the Trust Fund charged with a duty to protect its assets); *Truitt* v. *N. Am. Coal Corp.*, 2 Black Lung Rep. 1–199, 1–202 (Ben. Rev. Bd. 1979) (same).

(d) Several commenters argue that no language in either the text or legislative history of Longshore Act section 22 authorizes this proposed rule. While section 22 does not contain explicit language contemplating this rule, other sections of the Longshore Act require employers to pay benefits under an effective award and therefore require payment of compensation due even while modification proceedings are pending. *See, e.g.*, 33 U.S.C. 918, 921(a) (requiring payment of benefits pursuant to an award regardless of whether the award is final unless the order is stayed by an appellate tribunal); *Williams* v. *Jones*, 11 F.3d 247, 259 (1st Cir. 1993) (holding that employers must continue to pay pursuant to an effective award unless they are able to prove that doing so would result in irreparable injury). It is common practice for Longshore employers to comply with their obligations to pay compensation pursuant to an effective award while pursuing modification. There simply is no secondary payor—like the Trust Fund in black lung claims—available to serve as an alternative source of compensation payments in every case in which an employer does not meet its legal obligations, so there is no need for the Longshore Act to address this issue explicitly. Thus, the absence of any explicit language in section 22 mandating such compliance does not make the black lung rule inconsistent with Longshore Act practice.

This scenario also demonstrates why Congress incorporated the Longshore Act provisions into the BLBA with the qualification that the Department has authority to promulgate rules tailoring the incorporated provisions to the black lung program's specific needs. As discussed above (*see* Section II, *supra*), the Secretary's broad rulemaking authority under the BLBA specifically includes the "discretion to deviate from the LHWCA procedures and to prescribe 'such additional provisions, not inconsistent with those specifically excluded by this subsection, as [the Department] deems necessary.' " *Bethenergy Mines Inc.* v. *Dir., OWCP*, 854 F.2d 632, 634–35 (3d Cir. 1988) (quoting 30 U.S.C. 932(a)). The existence of the Trust Fund creates a need for a specific rule in the black lung program. Because the Department is authorized by statute to alter the procedures for modification, this rule is well within the Department's regulatory authority, even if section 22 does not explicitly require operators to demonstrate compliance with outstanding effective orders as a precondition to modification.

These same commenters also argue that the proposed regulation violates the Black Lung Benefits Revenue Act of 1977, which created the Trust Fund and specifies the circumstances under which it may pay benefits. The Revenue Act, codified at 26 U.S.C. 9501(d), authorizes the Trust Fund to pay benefits if the responsible operator either has not commenced payment within 30 days of an initial determination of eligibility, or has not made a payment within 30 days of its due date. 26 U.S.C. 9501(d). By regulation, the Department has provided that such payments by the Trust Fund are mandatory. *See* 20 CFR 725.420(c); 725.522. The commenters reason that because that statute *authorizes* (and the regulations compel) the Trust Fund to pay benefits to an entitled claimant when a liable operator fails to pay, the statute necessarily *endorses* the operator's refusal to pay. The statute contains no such endorsement. In fact, the statutory and regulatory enforcement provisions demonstrate that when Congress created the Trust Fund, it did not suspend operators' obligations to pay benefits once an effective or final order is issued. *See* 33 U.S.C. 918(a), incorporated by 30 U.S.C. 932(a) and implemented by 20 CFR 725.605 (establishing procedures for enforcement of effective awards even if those awards are not final); 33 U.S.C. 921(d), incorporated by 30 U.S.C. 932(a) and implemented by 20 CFR 725.604 (allowing for enforcement of final awards of benefits in federal court); *Hudson* v. *Pine Ridge Coal Co., LLC*, No. 2:11–00248, 2012 WL 386736, at *5 (S.D. W.Va. Feb. 6, 2012) (enforcing BLBA compensation order notwithstanding pendency of operator's modification petition). The comment provides no support for its assertion that Congress, in effect, approves of employers ignoring their BLBA payment obligations. *See also* 65 FR at 80011 (Dec. 20, 2000) (in revising § 725.502, rejecting similar comment and concluding that Congress did not intend the Trust Fund "to absorb all operators' liabilities as a matter of course until the conclusion of litigation in every approved claim").

(e) Several commenters allege that the proposed rule effectively denies the modification remedy to operators by eliminating their financial incentive to pursue modification. They contend that even if operators are successful on modification, they will be unable to recoup the benefits that were paid pursuant to previously effective awards. *See* 20 CFR 725.540(a) (allowing for recoupment of overpaid benefits). The Department does not believe that the commenters' perceived problems with the system for recovering overpayments justify withdrawing this rule.

The commenters allude to substantive and procedural reasons that operators may struggle to recover overpayments. Substantively, overpayments may not be recovered when the claimant is without fault in receiving the overpayment and if recovery would defeat the purpose of the Act or be against equity and good conscience. 20 CFR 725.542. This is true whether the overpayment is owed to an operator or to the Trust Fund. *See* 20 CFR 725.547. The initiation of payments prior to final adjudication is a characteristic of workers' compensation programs generally. *See, e.g., Doucette* v. *Hallsmith/Sysco Food Servs., Inc.*, 10 A.3d 692, 694 (Me. 2010) (recognizing express provision in Maine workers' compensation law that requires payment of benefits pending appeal and holding that court is not empowered to stay such payments); *Coley* v. *Camden Assoc., Inc.*, 702 A.2d 1180, 1184 (Conn. 1997) (Connecticut's workers' compensation law requires employers or insurers to pay benefits to claimants during the pendency of appeal); *Garcia* v. *McCord Gasket Corp.*, 534 N.W.2d 473, 478 (Mich. 1995) (affirming dismissal of employer's appeal for failure to pay benefits pursuant to effective, but not final, order as required by Michigan's workers' compensation law). Although this practice carries the risk that some claimants will receive compensation to which they were not entitled, that risk has been deemed an acceptable part of the workers' compensation compromise. Under the Act and regulations, the risk of an unrecoverable overpayment exists in every case where benefits are awarded, but the legislative history of the Act demonstrates Congress intended that operators, not the Trust Fund, should bear that risk. *See, e.g., Old Ben Coal Co.* v. *Luker*, 826 F.2d 688, 693 (7th Cir. 1987); *Nowlin* v. *Eastern Assoc. Coal Corp.*, 331 F. Supp. 2d 465, 476 (N.D. W.Va. 2004) ("[T]he public is served by placing the risk of non-collection of overpayments on the coal mine operator rather than on the Trust Fund").

Procedurally, these commenters argue that operators encounter difficulties in obtaining overpayment orders from the Department, and then in enforcing them against claimants because the BLBA does not grant jurisdiction to any court for this purpose. Overpayment proceedings are governed by §§ 725.547(b) and 725.548. 20 CFR 725.547(b), 725.548. Section 725.547(b) specifies that "[n]o operator or carrier may recover, or make an adjustment of, an overpayment without prior application to and approval" by the

Department. Section 725.548(a) authorizes district directors to issue appropriate orders to protect the rights of the parties, and § 725.548(b) provides that disputes will be resolved through the same adjudication procedures that govern claims. The Department understands its essential role in processing operator overpayment requests and is committed to cooperating with the parties to ensure prompt resolution. To that end, the Department will review its procedures for handling operator overpayment requests and will ensure that all personnel are properly trained in their handling as part of this rule's implementation.

Operator enforcement of overpayment orders, however, is an issue that is outside the scope of this rulemaking. Because this rule does not impose any new obligations on operators (*see* 80 FR 23744 (explaining that operators are legally required to pay pursuant to effective awards notwithstanding the pendency of a modification petition)), it also does not impose a new need for an enforcement remedy. These concerns represent a general complaint about the law as it currently stands and therefore should be directed to Congress, not the Department. The Department may not create a new cause of action in the courts. *See Kontrick* v. *Ryan*, 540 U.S. 443, 452 (2004) ("Only Congress may determine a lower federal court's subject-matter jurisdiction."); *Castaneda* v. *Immigration & Naturalization Serv.*, 23 F.3d 1576, 1579 n.2 (10th Cir. 1994) ("[A]dministrative agencies cannot by promulgation or interpretation of their own regulations either augment or nullify the jurisdiction of the federal courts as delimited by Congress.")

In sum, this rule does not impose any payment obligations on operators that do not exist currently, and thus should have no impact on operators' incentive to pursue modification when they believe it is warranted. *See, e.g., Crowe*, 646 F.3d at 445 (Hamilton, J., concurring) (noting that a pending modification request does not suspend an operator's obligation to pay pursuant to an effective award); *Hudson*, 2012 WL 386736, at *5 (same). Nor does this rule remove the primary incentive for operators to pursue modification: obtaining an order relieving them from the obligation to pay any additional benefits.

(f) The commenters contend that this rule is unfair because claimants and operators are treated differently. Specifically, operators must demonstrate that they have complied with their payment obligations before seeking modification of an award, but claimants are not similarly required to repay any overpaid benefits before seeking modification of a denial.

An overpayment could occur in any case where an adjudicator awards benefits to the claimant—thereby entitling the claimant to interim benefit payments pending final adjudication—and a higher-level adjudicator or appellate body denies the claim. *See* 20 CFR 725.522(b). Significantly, a decision reversing an award to a denial does not compel a claimant to repay previously paid benefits because the overpaid claimant has a statutory right to seek waiver of recovery of the overpayment. *See* 42 U.S.C. 404(b), as incorporated by 30 U.S.C. 923(b); *see also* 20 CFR 725.541; 725.542; 725.547. These provisions allow each overpaid claimant to argue that he or she need not repay the benefits because he or she was without fault in incurring the overpayment, and repayment would either defeat the purpose of the Act or be against equity and good conscience.

Claimants only have one year from the date of a denial of benefits to request modification. Yet waiver determinations commonly take more than that one year to complete. They are factually involved, requiring compilation of a completely different record addressing the claimant's role in creating the overpayment and the claimant's current financial position. As in a benefits claim proceeding, a district director's waiver decision is not binding if the claimant requests an administrative law judge hearing, and no repayment by the claimant is due until after the administrative law judge considers the waiver request. *See* 20 CFR 725.419(a), (d); 20 CFR 725.548(b). Thus, requiring claimants to repay overpayments before seeking modification could put them in the untenable position of having to choose between two statutory rights: (1) Repaying overpaid benefits within the one-year time limit for seeking modification and foregoing their right to seek a repayment waiver; or (2) seeking a repayment waiver and foregoing the right to seek modification.

This situation is not comparable to an operator's refusal to pay benefits pursuant to an effective award. Under an effective award, an operator is legally required, by both the BLBA and its implementing regulations, to pay benefits without any further action. 33 U.S.C. 921(b)(3) and (c), as incorporated by 30 U.S.C. 932(a); 20 CFR 725.502; *Crowe*, 646 F.3d at 445 (operator is entitled to seek modification, but "not legally entitled simply to ignore the final order of payment."); *Vincent* v. *Consolidated Operating Co.*, 17 F.3d 782, 785–86 (5th Cir. 1994) (enforcing award under the Longshore Act despite employer's modification request); *Williams* v. *Jones*, 11 F.3d 247, 259 (1st Cir. 1993) (same); *Hudson*, 2012 WL 386736, at *5 (denying motion to dismiss enforcement petition because of pendency of modification request). Section 725.310(e) simply requires operators to comply with their legal obligations before accessing the modification process. Moreover, the one-year period during which an operator may seek modification is constantly shifting because it runs from the date of last payment of benefits, and benefits are paid monthly. Thus, an operator might be in a position to seek modification many years after the initial award was entered.

(g) Although the Department has determined that proposed § 725.310(e) should be promulgated, the final rule contains several revisions based on comments received.

Several commenters contend that the rule would require an operator who wants to challenge a particular medical expense or an attorney's fee award to delay seeking modification until ancillary litigation regarding the disputed amount has concluded. The comment reveals an ambiguity in the proposed rule that the Department has clarified in the final rule by more specifically describing in § 725.310(e)(1) which awards an operator must pay before pursuing modification.

Miners who meet the BLBA's entitlement criteria are entitled to medical benefits for treatments necessitated by their pneumoconiosis and resultant disability. 20 CFR 725.701(a). A typical award of benefits will order the responsible operator to pay medical benefits generally, but will not contain findings as to whether any specific medical expense is compensable under the Act and regulations. The regulations recognize several valid reasons why a particular bill may be disputed, including that the medical service or supply was not for a pulmonary disorder or was unnecessary. 20 CFR 725.701(e). Operators have the right to dispute their liability for individual medical bills or charges and to take an unresolved dispute over the compensability of a medical bill to the Office of Administrative Law Judges for resolution. *See* 20 CFR 725.708. Any employer contest of an individual medical bill that goes to an administrative law judge results either in an order requiring payment or an order relieving the employer of the obligation to pay. *See* 20 CFR 725.701.

Thus, it is not uncommon for there to be multiple effective orders compelling an employer to pay medical benefits in a given case. While proposed § 725.310(e)(1) requires payment of only "currently effective" awards as defined by § 725.502(a), it does not identify whether a general award of medical benefits or a later award addressing specific medical charges triggers the operator's obligation to pay before being allowed to pursue modification. The Department has modified the final rule to clarify that only effective orders directing payment of specific medical bills must be paid before an operator may pursue modification. Such an order may arise in two ways. First, an effective order may arise if an operator does not timely contest specific medical bills brought to its attention by a district director. *See* 20 CFR 725.502(a)(2). Second, an effective order directing the payment of specific medical bills may be entered by an administrative law judge after a hearing on the compensability of those medical charges. *See id.* This revision ensures that operators will maintain the right to contest the compensability of each individual medical expense before an administrative law judge without burdening the right to seek modification of the underlying benefits award while review is underway. The final rule also protects claimants and the Trust Fund by requiring prompt payment or reimbursement of medical expenses that have been adjudicated to be compensable.

The commenters similarly contend that the proposed rule would require employers to delay seeking modification until ancillary litigation regarding attorneys' fees is concluded. The proposed rule requires that attorneys' fees be paid before an employer is allowed to pursue modification provided two conditions are met: The fee must be "approved," and the underlying benefits award must be final (*i.e.,* the time to appeal the benefits award has expired or appellate review has concluded). The proposed rule does not define the term "approved," and the Department recognizes that the term may be susceptible to multiple interpretations.

In proposing § 725.310(e)(1), the Department intended to require operators to pay only those amounts that are otherwise due and payable as a precondition to seeking modification. With regard to attorney fees, the case law construing section 28 of the Longshore Act, the source of the BLBA's attorneys' fee provision (*see* 33 U.S.C. 928, as incorporated by 30 U.S.C. 932(a)), is clear that attorneys' fee awards are not due and payable until the underlying benefit award is final, *see Thompson* v. *Potashnick Constr. Co.,* 812 F.2d 574, 577 (9th Cir. 1987), and the fee award is final as well. *See Johnson* v. *Dir., OWCP,* 183 F.3d 1169, 1171 (9th Cir. 1999). *See also* 20 CFR 725.367(b) (requiring payment of attorney fee only "after the award of benefits becomes final"). Thus, the Department has amended § 725.310(e) to clarify that an employer must pay attorney fee awards prior to modification only if both the underlying benefit award and the fee award are final as defined by 20 CFR 725.419(d) (district director decision), 725.479(a) (administrative law judge decision) or 802.406 (Benefits Review Board decision).

Two commenters object to proposed § 725.310(e)(1)(ii), which requires employers to reimburse the Trust Fund for benefits paid to claimants "with such penalties and interest as are appropriate" prior to seeking modification. The commenters assert that the term "penalties" is ambiguous and confusing and that its meaning should be clarified. They note that the Department has proposed amending other regulations (§§ 725.601 and 725.607), in part to make clear that additional compensation is not a "penalty." The commenters also suggest that the modifying clause, "as are appropriate," could be read as a grant of discretion to the adjudicator to fashion extra-regulatory penalties.

The commenters are correct that the term "penalties" is not intended to refer to the additional compensation that is payable to claimants under § 725.607, and the Department did not intend to authorize adjudicators to assess new penalties against operators. The proposed rule refers to certain statutory and regulatory civil money penalties that are payable to the Trust Fund. These penalties may be imposed for failure to secure the payment of benefits, *i.e.,* an employer's failure either to secure commercial insurance or receive permission to self-insure its benefit liability (30 U.S.C. 933(d); 20 CFR 726.300) and for an employer's failure to file a required report (30 U.S.C. 942(b); 20 CFR 725.621(d)). After considering the commenters' objections, the Department has determined that the language requiring operators to pay civil money penalties as a condition to seeking modification of an award of benefits is unnecessary. Therefore, the Department has deleted the words "penalties" and "as are appropriate" from § 725.310(e) in the final rule.

The Department has revised § 725.310(e) in the final rule to reflect these comments and to simplify the rule. Paragraph (e)(1) now defines "effective" and "final" orders by reference to the appropriate regulations. Paragraph (e)(2) retains the general requirement that operators must meet their payment obligations before pursuing modification, which appeared in proposed paragraph (e)(1). The Department has removed the phrase "currently effective" in describing orders that must be paid because it is redundant; orders are no longer "effective" when they are vacated by a higher tribunal or superseded by an effective order on modification. *See* 20 CFR 725.502(a)(1). Revised paragraphs (e)(2)(i)–(v) describe the particular obligations an operator must prove it has satisfied and implements the revisions described in detail above regarding orders awarding medical benefits or attorneys' fees, and striking the words "penalties. . . . as are appropriate" from obligations an operator must satisfy.

(h) No other significant comments were received concerning this section, and the Department has promulgated the remainder of the regulation as proposed.

20 CFR 725.413 Disclosure of Medical Information

(a) The Department proposed a new provision that would require the parties to exchange all medical information developed in connection with a claim. 80 FR 23745–47, 23752. Currently, parties may develop medical information (subject to certain limits on examinations of the miner) in excess of the evidentiary limitations set out in § 725.414, and then select from that information those pieces they wish to submit into evidence. Medical information developed but not submitted into evidence generally remains in the sole custody of the party who developed it unless an opposing party is able to obtain the information through formal discovery.

The Department's proposed rule would change this status quo by requiring parties to share medical information developed in connection with a claim. The Department articulated several reasons for the change. *See* 80 FR 23746–47. First, experience has demonstrated that miners may be harmed if they do not have access to all information about their health, and the primary purpose of the Mine Safety and Health Act is to protect the health and safety of miners. To illustrate the potential for adverse impact on the miner's health, the Department described the proceedings in miner Gary Fox's claims for benefits, where the coal-mine operator withheld medical information documenting complicated pneumoconiosis from both the miner and some of its own medical experts. Second, by requiring an exchange of medical information, the rule protects parties who do not have legal representation who can assist in the formal discovery process. Finally, allowing parties fuller access to medical information may lead to better, more accurate decisions on claims—a goal that is consistent with Congressional intent.

In addition to establishing the disclosure requirement and time frames within which parties must exchange medical information, the proposed rule set forth a non-exclusive list of sanctions an adjudication officer may impose on the party or the party's attorney for failure to disclose medical information in accordance with the rule. 80 FR 23752. But the rule provided that sanctions may be imposed only after giving the party an opportunity to demonstrate "good cause" for non-disclosure, and the sanctions imposed must be "appropriate to the circumstances." *Id.* The proposed rule also required the adjudication officer to consider whether sanctions should be mitigated because the party was not represented by an attorney when the non-disclosure occurred, or the non-disclosure was attributable solely to the party's attorney.

(b) The Department received several comments on the proposed rule. The comments ranged from supporting the proposed rule's promulgation without change to advocating the rule's withdrawal. Those commenters supporting the rule agreed with the Department that the rule is a fair and reasonable method of protecting the health and safety of miners, noting variously that it was "critical" and "ethical" for miners to have access to their health records. Others described experiences in representing claimants where the operator had skewed the medical evidence by withholding various pieces of medical information from their own experts or only partially disclosing a physician's opinion. A Member of Congress praised the Department's efforts, noting that the proposed rule could prevent harm to a miner who might otherwise be unaware of medical problems he or she may suffer and would level the playing field in claims adjudications, especially for unrepresented miners who would have difficulty navigating the discovery process.

Those commenters opposed to proposed § 725.413 state that the Department does not have statutory authority to promulgate the rule, or to impose sanctions, or both. They contend that neither the incorporated Social Security Act and Longshore Act provisions (*see* Section II, *supra*) granting the Secretary regulatory authority nor the Administrative Procedure Act (APA) are sufficient to sustain promulgation of this regulation. They also argue that the rule is unnecessary because only one attorney engaged in the conduct the rule addresses. They further contend that the Department has not demonstrated a quantifiable positive impact on miners' health that would result from the rule. If the Department promulgates a medical information disclosure rule, several commenters ask for clarification of specific portions of the rule.

After giving full consideration to the comments, the Department believes the rule is important to protecting the health of miners and is promulgating it with certain revisions described below. The following discussion addresses all of the significant comments the Department received and explains each revision in the final rule.

(c) Some commenters ask the Department to withdraw the rule, arguing that the Department lacks statutory authority to promulgate it. The Department disagrees with this comment. As discussed in detail above (*see* Section II, *supra*), Congress granted the Secretary broad rulemaking authority generally, and in governing evidentiary matters specifically. *See* 30 U.S.C. 923(b) (incorporating 42 U.S.C. 405(a)); 936(a). The statute also plainly authorizes the Department to depart from traditional procedural and evidentiary rules (such as those governing discovery) in order to best ascertain the rights of the parties in claims adjudications. 33 U.S.C. 923(a), as incorporated by 30 U.S.C. 932(a).

The objecting commenters dispute the Department's reliance on these statutory authorities. Without acknowledging the Secretary's general rulemaking authority under 30 U.S.C. 936(a), they contend that neither the incorporated Longshore Act nor the incorporated Social Security Act provisions support promulgation of § 725.413. First, these commenters assert that the Department's reliance on Longshore Act section 23(a) is hypocritical because proposed § 725.413 is itself a technical rule of procedure. While § 725.413 is undoubtedly procedural, it will relieve the parties from the burden of complex discovery rules and will simplify claim proceedings and make them fairer, especially for those parties not represented by counsel. The rule is thus fully consistent with section 23(a)'s overarching command to "best ascertain the rights of the parties."

Next, the same commenters state that the Department cannot rely on Social Security Act section 205(a), which they claim has no applicability to Part C BLBA claim proceedings (*i.e.,* claims filed after 1973 and administered by the Department) because it is located in Part B of the Act, and provides no authority for importing Social Security Administration procedures into Part C claim adjudications. The commenters are simply mistaken on their first point and misconstrue the Department's action on their second. The fact that the Social Security Act incorporation appears in Part B of the Act does not preclude the Secretary from basing regulations for Part C claims on that authority. 30 U.S.C. 940 (providing that "amendments made by the Black Lung Benefits Act of 1972," which included the incorporation of Social Security Act section 205(a), "shall, to the extent appropriate, also apply to this part [C]."). Indeed, both the District of Columbia and Fourth Circuit Courts of Appeals have upheld the Department's procedural regulations governing Part C claims by relying at least in part on this statutory authority. *See Nat'l Min. Ass'n.* v. *Dep't. of Labor,* 292 F.3d 849, 873–7 (D.C. Cir. 2002) (holding that section 205(a) and 5 U.S.C. 556(d)—which allows agencies to exclude "unduly repetitious evidence" as "a matter of policy"—constituted sufficient authority for the regulatory evidence limitations at 20 CFR 725.414, which are applicable to Part C claims); *Elm Grove Coal Co.* v. *Dir., OWCP,* 480 F.3d 278, 293 (4th Cir. 2007) (holding in Part C claim that incorporation of section 205(a), Administrative Procedure Act section 556(d), and grant of general rulemaking authority in 30 U.S.C. 936 authorize the Secretary "to adopt reasonable regulations on the nature and extent of the proofs and evidence in order to establish rights to benefits under the Act"). Moreover, § 725.413 does not import Social Security Administration procedures but instead provides a new rule applicable to Part C claims.

Promulgating a procedural rule requiring parties to exchange medical information developed in connection with a claim—a rule that governs proceedings before the agency, is party-neutral, protects a miner's health, and assists unrepresented parties—falls well within these statutory authorities.

(d) Apart from requiring the exchange of medical information, several commenters contend that the Department lacks statutory authority to promulgate regulations permitting the imposition of sanctions on parties or their attorneys who fail to properly disclose medical information. In support, they assert that: The Administrative Procedure Act (APA), 5 U.S.C. 501 *et seq.*, and section 558(b) in particular, 5 U.S.C. 558(b), prohibit an agency from imposing sanctions; only courts established under Article III of the Constitution (*i.e.*, federal district and appellate courts) may impose sanctions of fines and imprisonment; and neither the APA nor the BLBA authorizes sanctioning of attorneys in any event.

To the extent these commenters base their objections on the APA, their comments misapprehend how the APA's provisions interface with the BLBA. By statute, the APA does not apply to BLBA adjudications except as "otherwise provided" in the Mine Safety and Health Act. 30 U.S.C. 956 ("Except as otherwise provided in this chapter, the provisions of sections 551 to 559 and sections 701 to 706 of Title 5 shall not apply to the making of any order, notice, or decision made pursuant to this chapter[.]"). The BLBA otherwise provides for application of the APA provisions governing hearings—specifically, 5 U.S.C. 554 (which, in turn, refers to 5 U.S.C. 556)—by incorporating Longshore Act section 19(d). 33 U.S.C. 919(d), as incorporated by 30 U.S.C. 932(a). But as explained above (*see* Section II, *supra*), that incorporation is subject to an important limitation: The Longshore Act provisions are incorporated "except as otherwise provided . . . by regulations of the Secretary." 30 U.S.C. 932(a). Thus, "under the express language of the BLBA, the APA does not trump [a black lung program] regulation." *Amax Coal Co.* v. *Dir., OWCP,* 312 F.3d 882, 893 (7th Cir. 2002); *accord Midland Coal Co.* v. *Dir., OWCP,* 149 F.3d 558, 563 (7th Cir. 1998) (overruled on other grounds by *Saban* v. *U.S. Dep't of Labor,* 509 F.3d 376 (7th Cir. 2007)).

Unlike the APA hearing provisions, neither the BLBA nor the Department's implementing regulations calls for application of section 5 U.S.C. 558, the APA section the commenters rely upon most heavily to challenge the Department's authority to impose sanctions under § 725.413. Section 558(b) provides that "[a] sanction may not be imposed . . . except within jurisdiction delegated to the agency and as authorized by law." 5 U.S.C. 558(b). The Mine Safety and Health Act specifically excludes this APA section from incorporation unless "otherwise provided," and the BLBA does not "otherwise provide" for its application. 30 U.S.C. 956. Nor is this provision incorporated through the circuitous Longshore Act route that brings the APA's hearing-related provisions into the BLBA. Thus, the commenters' reliance on section 558 is misplaced.

Even assuming that (1) all provisions of the APA apply and (2) the Department may not vary them by regulation, solid authority holds that agencies may impose sanctions, short of fines and imprisonment, to enforce compliance with their discovery rules, particularly discovery orders made in the context of judicial-type proceedings. *See Atlantic Richfield Co.* v. *U.S. Dep't of Energy,* 769 F.2d 771, 794 (D.C. Cir. 1984). The District of Columbia Circuit recognized in *Atlantic Richfield* that it would be "incongruous to grant an agency authority to adjudicate—which involves vitally the power to find the material facts—and yet deny authority to assure the soundness of the factfinding process" through use of discovery sanctions. *See also Roadway Express Inc.* v. *U.S. Dep't of Labor,* 495 F.3d 477, 485 (7th Cir. 2007) (approving of ALJ's use of discovery sanction to "level the playing field" where party's non-compliance "made it impossible" for the ALJ to decide the case on the merits); *McAllister Towing & Transp. Co., Inc.* v. *NLRB,* 156 Fed. App'x 386, 388 (2d Cir. 2005) (affirming ALJ's imposition of discovery sanctions, citing *Atlantic Richfield*). *But see NLRB* v. *Int'l Medication Sys., Ltd.,* 640 F.2d 1110, 1114 (9th Cir. 1981) (agency was required to enforce a subpoena through federal district court and could not preclude employer from introducing evidence on issue as sanction for failure to comply with subpoena). And while it is true that the APA prohibits an agency's imposition of sanctions "except within jurisdiction delegated to the agency and as authorized by law," 5 U.S.C. 558(b), this provision, even if applicable, does not preclude sanctions aimed at protecting the integrity of the administrative process. *Am. Bus Ass'n* v. *Slater,* 231 F.3d 1, 7 (D.C. Cir. 2000). *See also Davy* v. *SEC,* 792 F.2d 1418, 1421 (9th Cir. 1986) (general grant of regulatory authority to SEC was sufficient to allow adoption of rule providing for sanctioning accountants practicing before the agency).

Contrary to the commenters' implication, no different rule applies when sanctioning parties' representatives. Agencies have the inherent authority to discipline lawyers who appear before them. *See Polydoroff* v. *I.C.C.,* 773 F.2d 372, 374 (D.C. Cir. 1985). *See also* 80 FR 28768, 28769–75 (May 19, 2015) (rejecting same concerns raised in response to the proposed Office of Administrative Law Judges Rules of Practice and Procedure, which also allowed imposition of sanctions in certain circumstances).

Nor does section 27 of the Longshore Act, 33 U.S.C. 927, incorporated into the BLBA by 30 U.S.C. 932(a), preclude the Department from imposing discovery sanctions. That provision authorizes adjudication officers to refer acts of contempt to a United States district court for punishment by fine or imprisonment. It does not preclude the Department from imposing the lesser sanctions set out in the proposed rule. *See Atlantic Richfield,* 769 F.2d at 795 (noting that "[a]n evidentiary preclusion order falls far short of an effort to exact compliance with a subpoena by a judgment of fine or imprisonment").

Two commenters state that the list of possible sanctions in proposed § 725.413(c)(2) is unclear because it is non-exclusive, suggesting that the Department strike the sanctions list from the rule. The Department anticipates that in most instances, an adjudication officer will impose one of the listed sanctions, and therefore the presence of a sanctions list leads to greater clarity. An adjudication officer, who is charged with governing the conduct of proceedings and resolving contested issues of fact or law (*see generally* 20 CFR 725.455), should be free, however, to fashion a remedy unique to the particular case at hand when warranted. But to clarify this provision and allay any concerns that the non-exclusive list could lead to the imposition of fines or imprisonment, the Department has revised the rule to preclude these sanctions. Fines and imprisonment are inherent in contempt powers, which section 27 of the Longshore Act vests in the federal courts. 33 U.S.C. 927, as incorporated by 30 U.S.C. 932(a). This revision appears at § 725.413(e)(3) in the final rule.

Finally, one commenter proposed expanding available sanctions to include permanent disbarment of attorneys from all BLBA practice. The Department does not believe that this sanction is necessary to enforce the medical information disclosure rule effectively. An adjudicator's authority extends to determining the merits of an individual claim. *See, e.g.,* 33 U.S.C. 919(a), as incorporated by 30 U.S.C. 932(a) (the adjudicator has the "authority to hear and determine all questions in respect of [a] claim"). Thus, the Department believes that any sanction's impact should be confined to the claim under consideration. The sanctions listed in § 725.413 are claim-specific and should be sufficient to protect the integrity of the claims process. The Department therefore declines to adopt this suggestion.

(e) Three commenters argue that requiring parties to exchange medical information is an overreaction to an isolated case, claiming that only one attorney engaged in the conduct addressed by proposed § 725.413. These commenters state that the Department cited only one case involving undisclosed medical information in the NPRM, and failed to fully assess the need for the rulemaking.

These comments are not accurate. Although the Department illustrated the need for the rule with a detailed summary of miner Gary Fox's claims, it also cited two additional cases (involving different attorneys) in the NPRM. 80 FR 23746. More importantly, the issue of withholding medical information generated by non-testifying experts has persistently recurred in black lung claims and has been litigated by some members of the associations making this comment. Several other commenters listed and described additional claims in which medical evidence was withheld. These cases, along with others the Department has identified, generally fall into three categories. In the first, the adjudication officer denies the party's (either the claimant's or the operator's) motion to compel discovery of the medical information because the party did not meet the standard for gaining discovery of a non-testifying expert's opinion imposed under the Office of Administrative Law Judges Rules of Practice and Procedure (OALJ Rules). *See, e.g., Keener* v. *Peerless Eagle Coal Co.,* ALJ Ruling and Order on Claimant's Motion to Compel and Employer's Motion for Protective Order, 2004–BLA–06265 (Apr. 12, 2005), *aff'd* BRB Decision and Order, BRB No. 05–1008 (Jan. 26, 2007); *Lester* v. *Royalty Smokeless Coal Co.,* ALJ Decision and Order on Remand Granting Benefits, 2004–BLA–05700 (Mar. 4, 2008). In the second, the claimant's motion to compel is granted, but the employer still avoids disclosure by accepting liability for benefits and paying the claim. *See, e.g., Daugherty* v. *Westmoreland Coal Co.,* ALJ Order Remanding Case to District Director, 2001–BLA–00594 (Mar. 21, 2005); *Renick* v. *Consolidation Coal Co.,* ALJ Order of Remand for Payment, 2002–BLA–00083 (Sept. 9, 2002); and *Harris* v. *Westmorland Coal Co.,* Order Denying Claimant's Request for Reconsideration, 1998–BLA–0188 (Aug. 7, 1998). And in the third, the motion to compel is granted and the medical information is disclosed. *See, e.g., Wood* v. *Elkay Mining Co.,* ALJ Decision and Order—Awarding Benefits, 2001–BLA–00701 (May 23, 2007); *Huggins* v. *Windsor Coal Co.,* BRB Decision and Order, BRB No. 06–0710 (Aug. 15, 2007). It is the first two categories of cases in which § 725.413 will change the result by requiring the exchange of previously undisclosed medical information.

These commenters also assert that the Department failed to quantify the general impact of non-disclosure on miners' health. Doing so with any certainty is impractical for several reasons. By their nature, these cases come to light only when a party takes affirmative action to discover medical information; the Department cannot quantify the volume of undisclosed medical information in cases where parties do not pursue discovery of that information and, in fact, might not even know of its existence. The same is true in those instances where the employer has chosen to accept liability for the claim rather than disclosing the non-testifying expert's opinion. The Department also cannot assess whether any particular piece of medical information would have an impact on any one miner's course of treatment or disease. But common sense dictates that better-informed miners and medical providers are able to make better decisions regarding a miner's care.

And, to the extent these commenters are correct in stating that, with very few exceptions, parties already exchange all medical information developed, they should not be affected by the final rule. Apart from a slightly earlier deadline for exchanging medical information, § 725.413 will not change those parties' current practice.

Despite the practical barriers to the suggested analysis, Congress was certain in its primary direction to the Department: "[T]he first priority and concern of all in the coal or other mining industry must be the health and safety of its most precious resource—the miner." 30 U.S.C. 801(a). Congress also explicitly recognized the importance of medical information to miners' health when it mandated medical screening to detect pneumoconiosis and provided that miners with evidence of pneumoconiosis could transfer to less-dusty areas of the mine site. 30 U.S.C. 843(a) (requiring underground coal mine operators to offer chest X-ray evaluations to miners periodically); 30 U.S.C. 843(b) ("[A]ny miner who, in the judgment of the Secretary of Health and Human Services based upon [a chest X-ray] reading or other medical examinations, shows evidence of the development of pneumoconiosis shall be afforded the option of transferring from his position to another position in any [less-dusty] area of the mine, for such period or periods as may be necessary to prevent further development of such disease[.]"). Section 725.413 fully comports with Congress' desires.

(f) The Department received several comments suggesting various clarifications and other changes to the proposed definition of "medical information" at § 725.413(a). As proposed, "medical information" includes medical data about a miner that was developed in connection with a claim for benefits (§ 725.413(a)) and that is: (1) An examining physician's assessment of the miner, including findings, test results, diagnoses, and conclusions (§ 725.413(a)(1)); or (2) any other physician's or medical professional's opinion or interpretation of tests, procedures and related documentation, but only to the extent they address the miner's respiratory or pulmonary condition (§ 725.413(a)(2)–(4)). 80 FR 23747, 23752. Thus, the medical data subject to disclosure is generally limited to data generated in the claim's litigation and relevant to the primary question in the claim—the miner's respiratory or pulmonary condition.

(1) Two commenters express concern that proposed § 725.413(a) does not specifically exclude a miner's medical treatment records from the definition of "medical information" subject to mandatory exchange between parties. As the Department explained in the NPRM, 80 FR 23747, treatment records are not medical data a party "develops in connection with a claim" and thus do not meet the definition of "medical information." Instead, these records are generated in the routine course of a miner's treatment and, if pertinent to the miner's respiratory or pulmonary condition, are admissible without limitation. 20 CFR 725.414(a)(4). But to allay any concern, the Department has revised § 725.413 to explicitly exclude treatment records from the "medical information" subject to exchange between the parties under this regulation. The new language is in paragraph (b)(1) of the final regulation.

(2) Several commenters assert that § 725.413 should exclude from "medical information" all draft medical reports. These same commenters also urge the Department to exclude all communications between a party's attorney and its medical experts. For the reasons that follow, the Department disagrees that draft medical reports should be excluded from "medical information" but has adopted the commenters' suggestion to exclude attorney communications with experts

from § 725.413's disclosure requirements.

To support their request for these exclusions, the commenters point variously to Federal Rule of Civil Procedure 26(b)(4)(B) and (C) and the OALJ Rules, 80 FR 28793 (May 19, 2015) (to be codified at 29 CFR 18.51(d)), which incorporate the concepts embodied in the Federal Rule. When an expert is required to submit written reports or other disclosures, those rules protect his or her draft reports from discovery. Fed. R. Civ. P. 26(b)(4)(B); 80 FR 28793 (to be codified at 29 CFR 18.51(d)(2)). Similarly, the rules generally protect from disclosure communications between the party's attorney and the expert witness except when those communications pertain to the expert's compensation, facts or data the attorney provided to the expert, or assumptions provided by the attorney to the expert that the expert relied on in forming his or her opinion. Fed. R. Civ. P. 26(b)(4)(C); 80 FR 28793 (to be codified at 29 CFR 18.51(d)(3)). These rules are designed to allow discovery of the facts and data on which the expert bases his or her opinion without unnecessarily interfering with effective communication between the attorney and the expert or disclosing the attorney's mental impressions and theories about the case. *See generally* Fed. R. Civ. P. 26, Advisory Committee comment to 2010 amendments.

As noted above (*see* Section II, *supra*), formal rules of procedure do not strictly apply in black lung claims adjudications. And a program-specific regulation applies over either the Federal Rules or the OALJ Rules. 80 FR 28785, to be codified at 29 CFR 18.10 (OALJ rules do not apply "[i]f a specific Department of Labor regulation governs[,]" and the Federal Rules of Civil Procedure apply only in situations not provided for in the OALJ rules or other governing regulation). *See also* 80 FR 28773 (discussing 29 CFR 18.10 and stating that "[n]othing in [the OALJ] rules would prevent the Department from adopting a procedural rule that applies only in BLBA claim adjudications or other program-specific contexts.").

In this instance, the Department believes a rule governing draft reports designed specifically for the Black Lung program will serve the program's purposes better than the general rule. Exempting all draft medical reports from § 725.413's disclosure requirements could easily eviscerate the rule: The disclosure requirement could be avoided simply by labeling any medical report a "draft." Any party could solicit additional medical opinions on the miner's condition and simply not share them with the opposing party, or perhaps even their remaining expert witnesses. If an employer engaged in that conduct, a primary purpose of the rule—protecting the health and safety of the miner by ensuring access to all information about his or her health—would be thwarted. And if a claimant did the same, another primary purpose of the rule—accurate claims adjudication—could be in jeopardy.

On the other hand, the Department does not see a similarly compelling need to routinely require disclosure of communications from an attorney (or non-attorney representative, *see 20 CFR 725.363(b)*) to a medical expert. When prepared by an attorney, these communications are generally protected from disclosure, except in the circumstances noted above, and are more likely to include the attorney's impressions and legal analysis of the case. And they generally do not have a direct bearing on protecting the miner's health. Accordingly, the Department believes these communications should not be considered "medical information" subject to mandatory exchange with the other parties. The Department has added new language to paragraph (b)(2) in the final rule to exclude attorney (and non-attorney representative) communications from the rule's disclosure requirements. The Department notes, however, that the exclusion would not protect disclosure of these communications when otherwise ordered. *See, e.g, Elm Grove Coal,* 480 F.3d at 299–303. The rule simply does not require their exchange.

(3) Two commenters ask the Department to revise § 725.413(a) to include "an exhaustive list" of "medical information" that must be exchanged. They claim that the proposed rule does not adequately describe the scope of covered information. To illustrate, the commenters point to several examples, such as data the Social Security Administration considers "health information" (*e.g.,* a patient's method of bill payment) and suggest that "medical information" could be construed to include such data.

The Department has not added a complete list of "medical information" to the final rule. As explained, the rule expressly limits disclosure to medical information developed in connection with a claim for benefits and, with the exception of an examining physician's report, further limits required disclosure to data addressing the miner's respiratory or pulmonary condition. These two limitations serve to substantially narrow and define the scope of information that must be exchanged with opposing parties (*e.g.,* data about a billing method would not meet the criteria).

Moreover, developing an exhaustive list would not be practical because it could easily omit relevant medical data. Another black lung program regulation (20 CFR 718.107(a)) correctly countenances the possibility that medical testing methods other than those explicitly addressed in the regulations may be used to evaluate a miner's respiratory or pulmonary condition. *See id.* (allowing for admission of "any medically acceptable test or procedure reported by a physician and not addressed in this subpart, which tends to demonstrate the presence or absence of pneumoconiosis, the sequelae of pneumoconiosis or a respiratory or pulmonary impairment"). Adopting a finite list in § 725.413 could inadvertently exclude otherwise important data, especially as testing methods evolve in the future.

(4) Two commenters ask the Department to clarify whether the form in which the party receives the medical information (*i.e.,* written, electronic, or orally) affects the duty under § 725.413 to exchange that information. As proposed, § 725.413(a)(1) and (2) require the parties to exchange physicians' "written or testimonial assessment of the miner." The remainder of the rule is silent regarding the form of the communication. The Department agrees that the rule should be clarified on this point and has revised paragraph (a) in the final rule. With this change, the Department intends to make all written medical information, whether received in electronic (*e.g.,* email, facsimile, Web portal or other electronic media) or hard-copy format, subject to § 725.413's requirements. This would also include testimonial medical information resulting from depositions (*e.g.,* transcripts of depositions). But the rule is not intended to cover oral communications. The Department has no mechanism to monitor oral communications, and compliance with such a rule would be impossible to enforce.

(g) Two commenters express concern that the proposed rule does not adequately address the interplay between § 725.413's disclosure requirements and § 725.414's evidence-limiting provisions (which restrict the number of objective tests and medical reports parties may offer into evidence), and may lead to confusion as to whether the new disclosure requirements expand the amount of medical evidence a party may offer beyond that currently allowed under § 725.414. The Department agrees with this comment and has added a new paragraph (d) to § 725.413 to clarify that disclosed medical information is not considered evidence in the claim. Section 725.413's disclosure requirements essentially replace traditional discovery tools. Like information gained through traditional discovery, medical information exchanged under § 725.413 does not automatically become a part of the record on which the claim's adjudication is based. Instead, only those pieces of medical information a party chooses to submit to the adjudicator as evidence are subject to § 725.414's evidence-limiting rules.

(h) On a related note, one commenter states that because district directors serve a dual role as a party (entitled to receive disclosed medical information under this rule) and an adjudicator, they could be confused about which pieces of exchanged medical information should be considered as evidence in the claim. This commenter suggests that the rule be revised to require private parties to disclose evidence to the Director only after a hearing has been requested. The Department disagrees with the suggested approach. District directors are skilled adjudicators who routinely sort through admissible and non-admissible pieces of medical information in issuing proposed decisions and orders. For example, when parties submit more evidence than allowed under the § 725.414 evidence-limiting rules (a not infrequent occurrence), district directors must eliminate from consideration the evidence exceeding the limits when adjudicating the claim's merits. In addition, removing the district director from early disclosures would hamper their ability to administer the rule. The Department will ensure that district directors and their staffs receive training on the appropriate disposition and use of material disclosed under the rule.

(i) Several commenters ask that attorneys (and presumably non-attorney representatives as well) be exempt from liability for a client's failure to disclose medical information received by a party prior to the attorney's hiring. The Department concurs with this comment but does not believe a change in the proposed rule is necessary. Section 725.413(b) links the duty to exchange medical information to its "receipt." An attorney or representative new to the case cannot be held responsible for the party's (or the party's prior representative's) failure to timely exchange the information because the new representative was not in "receipt" of the medical evidence prior to their entry into the case. But once the new representative actually receives any medical information generated before they entered the case—for instance, from a claimant who gives his or her new attorney all of the paperwork they have related to the claim—the representative then has a duty to ensure that the medical information is exchanged with the other parties within thirty days in accordance with § 725.413(b).

(j) Several commenters contend that the rule denies due process to sanctioned parties because the regulation authorizes no form of review for a wrongful sanctions ruling. These commenters believe that a sanctions ruling cannot be reviewed along with the merits of a claim because the ruling cannot be reversed. While the Department believes that normal claim procedures are sufficient to protect the rights of sanctioned individuals, it has clarified the review procedure by adding a new paragraph (e)(4) to the final rule. Under this provision, a sanction imposed by a district director is subject to de novo review by an administrative law judge. The Department has adopted this approach because several of the listed sanctions—such as drawing an adverse inference against the non-disclosing party or limiting a non-disclosing party's claims, defenses, or right to introduce evidence—are closely tied to the adjudication of a claim's merits. By statute, the administrative law judge has the "authority to hear and determine all questions in respect of [a] claim." 33 U.S.C. 919(a), as incorporated by 30 U.S.C. 932(a). These questions would include whether the party had "good cause" for not making the required disclosure and the appropriateness of the sanction chosen. Any administrative law judge's order resulting in a final disposition of the claim would be subject to immediate appeal to the Benefits Review Board, followed by appeal to an appropriate court of appeals. 33 U.S.C. 921(a), (c), as incorporated by 30 U.S.C. 932(a). And in the absence of a final claim disposition, a sanctioned party could choose to immediately appeal an order imposing sanctions to the Board, whose precedent allows it to accept such interlocutory appeals merely to direct the course of the adjudicatory process. *See Niazy* v. *Capital Hilton Hotel,* 19 BRBS 266, 269 (1987).

(k) No other significant comments were received concerning this section, and the Department has promulgated the remainder of the regulation as proposed.

20 CFR 725.414 Development of Evidence

(a)(1) The Department proposed revising § 725.414, which imposes limitations on the quantity of medical evidence each party may submit in a black lung claim. 20 CFR 725.414. Sections 725.414(a)(2) and (a)(3) allow each party to submit "no more than two medical reports" in support of its affirmative case. 20 CFR 725.414(a)(2)–(3). The current rule defines a "medical report" as a "written assessment of the miner's respiratory or pulmonary condition" that "may be prepared by a physician who examined the miner and/or reviewed the available admissible evidence." 20 CFR 725.414(a)(1).

This definition of "medical report" at times created confusion over whether supplemental reports offered by a physician whose initial opinion had already been entered into evidence counted against the parties' two-report limit. 80 FR 23747. Parties obtain supplemental reports when they ask a physician to update his or her initial report by reviewing additional material, such as medical testing results or other physicians' opinions. To eliminate this confusion, the Department proposed revising the definition of a "medical report" to codify the Director's longstanding position that a physician's supplemental report is "merely a continuation of the physician's original medical report for purposes of the evidence-limiting rules and do[es] not count against the party as a second medical report." 80 FR 23747. The Department noted that the proposed definition was consistent with the regulatory provision allowing physicians to review (either in a written report or oral testimony) the other admissible evidence, and a cost-effective means of providing medical-opinion evidence given the practical realities of black lung claims litigation. 80 FR 23747–48.

(2) Three commenters support the proposed rule as written. Four other commenters state general support for the rule, but question how a physician's supplemental medical report would be treated in a modification proceeding. *See generally* 20 CFR 725.310. Specifically, these commenters express concern over allowing physicians who submitted reports in the initial proceeding to submit supplemental reports on modification without those reports being counted against the party's evidentiary limits. The commenters believe this practice could lead to the development of limitless evidence, thwarting the purpose of the evidence-limiting rules.

(3) The Department does not believe this comment warrants a change in the proposed rule. In a modification proceeding, the regulations allow each party to submit one additional medical report in support of its affirmative case. 20 CFR 725.310(b). This provision supplements the limitations contained in § 725.414(a); thus, during modification, a party may submit up to the two medical reports allowed under § 725.414(a), if they were not submitted during the original claim proceedings, plus one additional medical report, for a total of three. *Rose* v. *Buffalo Mining Co.*, 23 Black Lung Rep. 1–221, 1–226–28 (Ben. Rev. Bd. 2007).

Considering a physician's supplemental report as an extension of his or her original report is consistent with the Department's longstanding position that modification proceedings are a continuation of the initial claim. *See Betty B Coal Co.* v. *Dir., OWCP,* 194 F.3d 491, 498 (4th Cir. 1999). Moreover, this conclusion logically flows from a party's right to submit evidence not submitted during the initial claim proceedings to the extent allowed under § 725.414(a). *Rose,* 23 BLR at 1–227–28. Because a supplemental report could have been submitted during the initial proceedings without counting against the party, it is reasonable to allow the same accommodation during modification.

Finally, the regulations provide that a physician who submits a report during the initial proceedings could testify at hearing or by deposition during modification proceedings, without it counting against the party for purposes of the evidence-limiting rules. *See* 20 CFR 725.414(c) ("A physician who prepared a medical report admitted under this section may testify with respect to the claim at any formal hearing conducted in accordance with subpart F of this part, or by deposition."). A testifying physician may address any admissible medical evidence submitted in the claim. *See* 20 CFR 725.457(d); 725.458. Thus, it makes little sense not to allow supplemental reports if a party could achieve the same result by having its physician testify during modification proceedings. *See* 80 FR 23748. Allowing submission of a written report is also consistent with the nature of black lung proceedings, where such reports are freely admissible.

The commenters' claim that this interpretation would result in limitless evidentiary development is overstated. Allowing supplemental reports from physicians whose opinions were admitted in the initial claim proceeding does not increase the number of physicians who may evaluate the miner's condition. As explained, that total remains at a maximum of three for each party in a modification proceeding. And development of supplemental reports in an undisciplined or unreasonable way is naturally constrained by other regulations. For example, physicians may review only admissible evidence, 20 CFR 725.414(a)(1), and the amount of admissible evidence overall is limited. *See* 20 CFR 725.414(a)(2)–(3). The limited number of test results, such as chest X-ray reports and pulmonary function tests, each party may submit restricts the number of supplemental reports necessary to review and comment on those tests.

(b)(1) The Department proposed a separate revision to § 725.414(a)(3)(iii). Currently, this provision authorizes the Director to exercise the rights of a responsible operator for the purposes of the evidence limitations only if: (1) The district director has not identified a potentially liable operator; or (2) all potentially liable operators have been dismissed. The Department proposed adding a third provision that would allow the Director to submit medical evidence, up to the limits allowed a responsible operator under the evidence-limiting rules, when the identified responsible operator stops defending a claim during the course of litigation because of adverse financial developments, such as bankruptcy or insolvency. 80 FR 23753.

The Department proposed this change because the current rule does not adequately protect the Trust Fund against unmeritorious claims in these circumstances. 80 FR 23748. Where an identified responsible operator ceases to defend a claim in litigation due to adverse financial developments, the current rule limits the Director's submissions to only the complete pulmonary evaluation that the Department gives to every miner as an opportunity to substantiate his or her claim. *See generally* 30 U.S.C. 923(b); 20 CFR 725.406, 725.414(a). This is true even though the Trust Fund may ultimately be liable for any benefits awarded. The proposed rule would give the Director the same rights to defend against a claim as if there were no responsible operator in the case. This means that in a miner's claim, the Director could submit as part of his affirmative case one medical opinion and set of testing in addition to the complete pulmonary examination afforded every miner who applies for benefits. *See* 20 CFR 725.414(a)(3)(iii).

(2) Two commenters support the rule as proposed. Several other commenters state that the rule needs clarification. The latter commenters agree that the Director should be able to defend unmeritorious claims in these circumstances, but only if the district director initially denied the claim. In cases initially awarded by the district director, the commenters express concern that the Director may use medical evidence previously developed by the no-longer-defending operator. They believe this would be improper for two reasons: (1) The Director would be impeaching his own witness (*i.e.*, the physician who performed the Department-sponsored medical evaluation and whose opinion most likely supported the initial benefits award) with operator-generated evidence, and challenging the award at a later stage would call into question the district director's role as a neutral adjudicator; and (2) medical opinions generated by operators virtually always express views contrary to the BLBA, the implementing regulations, and science. The commenters further allege, without examples, that whether the district director initially awards or denies the claim, a conflict of interest arises should the Director later decide to defend a claim because earlier routine communications between the claimant and the district director could be used against the claimant. For the reasons that follow, the Department does not believe any changes should be made in the proposed rule based on these comments.

First, the Director is not obligated to continue to advocate for an award of benefits once that award has been proven by later evidence or an intervening adjudication to be incorrect. *Hardisty* v. *Dir., OWCP,* 776 F.2d 129, 130 (7th Cir. 1985) (Director not bound by initial award of benefits in later proceedings after liability transferred from the responsible operator to the Trust Fund); *Pavesi* v. *Dir., OWCP,* 758 F.2d 956, 960 (3d Cir. 1985) (Director has obligation to protect Trust Fund and is not bound by district director's initial award of benefits). *See also Cornett* v. *Benham Coal, Inc.,* 227 F.3d 569, 573 n.2 (6th Cir. 2000) (in litigation of claim, Director may take a position contrary to district director's initial finding that claim should be denied). This approach makes sense both because the Director has a fiduciary duty to protect the Trust Fund against unmeritorious claims, *see, e.g., Dir., OWCP* v. *Hileman,* 897 F.2d 1277, 1281 n.2 (4th Cir. 1990), and later contrary evidence could prove more probative. For example, a district director could award benefits based on X-ray evidence of complicated pneumoconiosis (also known as progressive massive fibrosis) when a later autopsy report affirmatively demonstrates that the miner did not have that form of the disease. The reverse could also occur (*i.e.*, the district director denied the claim and an autopsy shows the miner suffered from complicated pneumoconiosis), compelling the Director to argue for an award of benefits. Neither scenario calls into question the district director's neutrality in adjudicating the claim based on the evidence before him or her.

Second, the commenters' fear that the Director would rely on operator-generated medical opinions that are contrary to the BLBA, the regulations or science overlooks the Director's longstanding, consistent history arguing for rejection of these problematic medical opinions. *See, e.g., Harman Mining Co.* v. *Dir., OWCP*, 678 F.3d 305, 314–16 (4th Cir. 2012) (endorsing the Director's argument that a physician's opinion was permissibly considered less persuasive when the physician's views conflicted with the Department's rationale for amending the regulations); *Sea "B" Mining Co.* v. *Dunford*, 188 F. App'x 191, 199 (4th Cir. 2006) (agreeing with the Director that operator's physician's opinion was based on two premises that are hostile to the Act and thus appropriately discredited); *Hunt* v. *Kentland Elkhorn Coal Corp.*, 159 F. App'x 659, 661–62 (6th Cir. 2005) (the Director argued that operator's physicians' opinions must be rejected because both were based on premises inconsistent with the Act); *Penn Allegheny Coal Co.* v. *Mercatell*, 878 F.2d 106, 109–10 (3d Cir. 1989) (agreeing with the Director that the ALJ reasonably discredited physician's opinion based on premises "fundamentally at odds with the statutory and regulatory scheme"); *Black Diamond Coal Mining Co.* v. *Benefits Review Board*, 758 F.2d 1532 (11th Cir. 1985) (Director supported ALJ discounting testimony of a doctor as inconsistent with the Act when that physician stated that he would not diagnose pneumoconiosis in the absence of positive x-rays); *Kaiser Steel Corp.* v. *Dir., OWCP*, 748 F.2d 1426 (10th Cir. 1984) (Director argued that the ALJ had properly discredited as contrary to the findings and purposes of the Act the opinion of a physician who stated coal workers' pneumoconiosis was never impairing).

The Director does not intend to alter this policy. In each case—whether the claim was awarded or denied by the district director—the Director will evaluate any medical opinion evidence developed by the defunct operator and reject any evidence inconsistent with the BLBA, the regulations and supporting preambles. This is the same process the Director engages in now when an operator ceases to exist and liability for a claim in litigation is transferred to the Trust Fund.

Third, the allegation that routine information exchanged between the district director and the claimant could later be used to defeat the claim is unfounded. By statute, the Department wears two hats in black lung cases, with district directors conducting initial adjudications and the Secretary, represented by the Director, participating as a party-in-interest in all later proceedings. *See generally* 33 U.S.C. 919, as incorporated by 30 U.S.C. 932(a) (providing for district director determinations) and 30 U.S.C. 932(k) (making the Secretary a party in all cases). The district director receives claim filings, gathers factual information about the miner's employment history and dependents, and, in claims filed by a miner, arranges for a complete pulmonary examination. Based on this information and any evidence submitted by the parties, the district director proposes an initial entitlement decision. Findings made by the district director are not binding on an administrative law judge, who conducts an independent de novo review of the claim. *See* 20 CFR 725.455(a) (In general, "any findings or determinations made with respect to a claim by a district director shall not be considered by the administrative law judge").

Given the de novo nature of the administrative law judge's adjudication, it is difficult to see how communications between the district director and the claimant could adversely impact the claimant. More importantly, for more than three decades the Director has defended proposed district director denials of benefits in claims for which the Trust Fund bears direct liability. *See* 26 U.S.C. 9501(d)(1)(B) (amounts in Trust Fund available to pay benefits when there is no liable operator). In these claims, the district director conducted an initial adjudication and the Director routinely participated in further proceedings, advocating for a denial of benefits unless the evidence demonstrated that the claimant was entitled to benefits. To the Department's knowledge, the Director has not used communications made between the claimant and the district director in a manner adverse to the claimant. And the commenters have pointed to no such instances.

Finally, the Department disagrees with one commenter's suggestion that operators be required to certify the reason for their inability to pay continuing benefits. Requiring certification from a bankrupt or insolvent operator would place too high an administrative burden on the Department. In some instances, locating a person who could act on the defunct operator's behalf may be impossible. And, even assuming the operator continues to exist in some form, an operator lacking financial capacity to pay benefits has little incentive to respond to a certification request. The rule, and the protection it affords the Trust Fund, would be rendered useless if an operator either failed or simply refused to supply any required certification.

(c) No other significant comments were received concerning this section, and the Department has promulgated § 725.414 as proposed.

20 CFR 725.601 Enforcement Generally

(a) Currently, § 725.601(b) refers to "payments in addition to compensation" and cross references § 725.607. The proposed rule replaced this phrase with "payments of additional compensation." 80 FR 23753. The Department intended this to be a technical change, unifying this language with a simultaneously proposed change to § 725.607. 80 FR 23748.

(b) One commenter objected, contending that the wording change is substantive and would impose unauthorized penalties on operators. The Department disagrees with this comment. The change to this rule is technical in nature and, as stated in the NPRM, no substantive change is intended. *Id.* For this reason, as well as the reasons set forth in the discussion under § 725.607, the Department is promulgating this rule as proposed.

20 CFR 725.607 Payments in Addition to Compensation

(a) Section 725.607 implements section 14(f) of the Longshore Act, an incorporated provision. 33 U.S.C. 914(f), as incorporated by 30 U.S.C. 932(a). Section 14(f) generally provides that claimants are entitled to receive from a liable coal mine operator 20 percent of any compensation owed under the terms of an award that is not paid within ten days of the date payment is due. By regulation, payment is due "on the fifteenth day of the month following the month for which the benefits are payable." 20 CFR 725.502(b)(1); *see also* 20 CFR 725.502(a). The operator is liable for the 20 percent amount even if the Trust Fund pays ongoing benefits to the claimant on an interim basis. 20 CFR 725.607(b).

The Department proposed revising both the title of § 725.607 and the text of paragraph (c) by replacing the phrase "payments in addition to compensation" with the phrase "payments of additional compensation." 80 FR 23853–54. As explained in the NPRM, 80 FR 23748–49, section 725.607(b) uses the phrase "additional compensation," and conforming the title and paragraph (c) to that language adds clarity to the regulation and "eliminate[s] any possibility that the regulation's phrasing could confuse readers." 80 FR 23749; *see also* 20 CFR 725.530(a) (cross-referencing § 725.607 and describing potential operator liabilities as including "additional compensation"). The phrase "additional compensation" reflects the Director's view, as well as the view of the majority of courts that have considered the issue, that payments made under Longshore Act section 14(f) are compensation rather than penalties. 80 FR 23748.

(b) Four commenters contend that the proposed revisions to the title and paragraph (c) impose new and unauthorized penalties on operators. Although these commenters concede that section 14(f) is incorporated into the BLBA, they challenge application of the provision to the BLBA program.

Using the phrase "additional compensation" consistently throughout the regulations does not impose any new or unauthorized penalties on operators. The Department has had a regulation interpreting and applying section 14(f)'s 20 percent additional compensation provision to unpaid black lung benefits since 1978. *See* 43 FR 36814–15 (Aug. 18, 1978). Clarifying the language neither adds a new provision nor alters the character of the 20 percent additional compensation payment to a penalty. The Department is therefore promulgating the rule as proposed.

IV. Information Collection Requirements (Subject to the Paperwork Reduction Act) Imposed Under the Proposed Rule

The Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, and its implementing regulations, 5 CFR part 1320, require that the Department consider the impact of paperwork and other information collection burdens imposed on the public. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the Office of Management and Budget (OMB) under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person may generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

In the NPRM, the Department noted that proposed § 725.413, which, as discussed above, requires parties to exchange certain medical information, could be considered a collection of information within the meaning of the PRA. 80 FR 23749. Accordingly, the Department submitted an Information Collection Request (ICR) to OMB for approval. *See* ICR Reference Number 201504–1240–002. The NPRM specifically invited comments regarding the information collection and notified the public of their opportunity to file such comments with both OMB and the Department. 80 FR 23749. On July 24, 2015, OMB concluded its review of the ICR by asking the Department to submit another ICR at the final rule stage and after considering any public comments regarding the information collection requirements in the rule.

The Department received comments on the substance of proposed § 725.413; these comments are fully addressed in the Section-by-Section Explanation above. The Department received no comments about the information collection burdens. The Department has submitted an ICR to OMB for the information collection in this final rule. *See* ICR Reference Number 201511–1240–003. A copy of this request (including supporting documentation) may be obtained free of charge from the Reginfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201511-1240-003*, or by contacting Michael Chance, Director, Division of Coal Mine Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, 200 Constitution Avenue NW., Suite N–3464, Washington, DC 20210. Telephone: (202) 693–0978 (this is not a toll-free number). TTY/TDD callers may dial toll-free 1–800–877–8339. OMB is currently reviewing the ICR. The Department will publish a notice in the **Federal Register** when OMB concludes its review of the ICR.

The information collection and its burdens are summarized as follows:

Agency: DOL–OWCP.

Title of Collection: Disclosure of Medical Information.

OMB Control Number: 1240–0054.

Affected Public: Private Sector: Businesses and other for-profits.

Total Estimated Number of Respondents: 4,074.

Total Estimated Number of Responses: 4,074.

Total Estimated Annual Time Burden: 679 hours.

Total Estimated Annual Other Costs Burden: $6,681.

V. Executive Orders 12866 and 13563 (Regulatory Planning and Review)

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Department has considered the final rule with these principles in mind and has determined that the regulated community will benefit from these new and revised regulations.

The Department addressed these issues in the NPRM. 80 FR 23749–50. With regard to § 725.310(e), which requires operators to pay effective awards of benefits while seeking to modify them, the Department stated that the proposed rule was "cost neutral" because it merely enforced operators' existing legal obligations under the Act. 80 FR 23749. The Department also noted that even if § 725.310(e) were construed as imposing a new obligation, any additional costs would not be burdensome because operators must reimburse the Trust Fund (with interest) when unsuccessful on modification, operators are not often successful on modification, and if successful, operators may seek reimbursement from the claimant for at least some of the benefits paid. 80 FR 23750. Apart from the potential monetary impact, the Department determined that § 725.310(e) struck an appropriate balance between claimants, who are made whole under the rule, and operators, who may seek a stay of payments if they would be irreparably harmed by making them. 80 FR 23750.

The Department similarly concluded that the benefits of § 725.413, which requires the parties to exchange all medical information they develop in connection with a claim, far outweighed any minimal administrative burden the rule might place on parties. 80 FR 23750. These benefits include protecting miners' health and reaching more accurate claims determinations. The Department also noted that the rule may not have broad impact because parties often already exchanged all of the medical information in their possession. *Id.*

The Department has considered the final rule with these principles in mind and has determined that the regulated community will benefit from these new and revised regulations. One comment, in which four entities joined, generally criticized the Department for not demonstrating why these rule revisions were necessary. The comment states that the Department provided no empirical data to support them and instead cited only unrepresentative anecdotes documenting mostly non-existent problems that do not accurately characterize how black lung claims are handled. The comment also alludes generally to significant expenses imposed on coal mine operators and their insurers by the Department but provides no specific information regarding how these rules in particular impose increased costs. In addition to these general allegations, this comment states that the Department did not conduct an empirical review of the impact of § 725.310 and did not adequately consider the actual impact § 725.413 would have on miners' health.

The Department does not believe this comment compels a different conclusion regarding the benefits of this rulemaking. The Department has administered the black lung program for more than three decades and been a party in hundreds of thousands of claims. As a result, the Department is intimately familiar with how black lung claims are litigated by all parties. To further illustrate that §§ 725.310(e) and 725.413 respond to non-illusory problems, the Department has added additional representative case examples in the Section-by-Section Explanation above (*see* Section III, *supra*). While these modification and discovery issues do not arise in every case, they arise frequently enough—and can have sufficiently important consequences when they do arise—that resolution by regulatory action is appropriate.

On the more specific comments, § 725.310(e), as discussed above (*see* Section III, *supra*), enforces an existing legal obligation imposed on operators by the statute and implementing regulations. Absent a stay of payments ordered by the Benefits Review Board or a court, operators are obligated to pay effective benefits awards, regardless of any other proceedings in the claim. The statute and regulations already mandate that any associated economic burden be borne by operators rather than the Trust Fund. The only new burden the rule places on operators is to demonstrate that they have complied with the relevant orders. For operators that are in compliance, this showing will not be difficult. This minimal burden does not outweigh the Department's duty to ensure that claimants receive all benefits when due and to protect the Trust Fund's assets.

Similarly, the benefits associated with § 725.413 far outweigh any additional minimal burden the regulation will impose on the parties. For the reasons explained above (*see* Section III, *supra*), the Department cannot quantify the actual impact of non-disclosure of medical information on miners' health with any certainty. But the rule is fully consistent with the Mine Safety and Health Act's prime directive: To protect the health and safety of the miner. Section 725.413 also affords unrepresented claimants an even playing field when litigating their claims and increases the possibility of more accurate entitlement determinations. Balanced against these important interests is the minimal administrative burden of exchanging all medical information a party develops about the miner with the other parties, a practice several objecting commenters state the parties have routinely followed in all but a few instances. Thus, to the extent § 725.413 mandates such practice, the impact on the parties should be very small.

Finally, one comment stated that several parts of the proposed rules violated the various directions in Executive Orders 12866 and 13563 that rules be clear and written in plain language. The Department has responded to these comments in discussing the substance of each rule in the Section-by-Section Explanation above.

This rule is a significant regulatory action under section 3(f)(4) of Executive Order 12866 and has been reviewed by the Office of Information and Regulatory Affairs in the Office of Management and Budget.

VI. Regulatory Flexibility Act and Executive Order 13272 (Proper Consideration of Small Entities in Agency Rulemaking)

The Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601 *et seq.* (RFA), requires an agency to evaluate the potential impacts of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions and to prepare a "regulatory flexibility analysis" describing those impacts. But if the rule is not expected to have "a significant economic impact on a substantial number of small entities," the RFA allows the agency to so certify in lieu of preparing the analysis. 5 U.S.C. 605(b).

In the NPRM, the Department determined that a complete regulatory flexibility analysis was not necessary, set forth the factual basis for this conclusion, and certified that the revised rule would not have a significant economic impact on a substantial number of small entities. 80 FR 23750. The Department provided a copy of that certification to the Chief Counsel for Advocacy of the Small Business Administration, *see* 5 U.S.C. 605(b), and invited public comment on the certification.

The Chief Counsel for Advocacy has not filed comments on the certification. Moreover, no public comments address any adverse economic impacts this rule will have on small coal mine operators. Because the comments do not provide a basis for departing from its prior conclusion, the Department again certifies that this rule will not have a significant economic impact on a substantial number of small entities. Thus, no regulatory flexibility analysis is required.

VII. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531 *et seq.*, directs agencies to assess the effects of Federal Regulatory Actions on State, local, and tribal governments, and the private sector, "other than to the extent that such regulations incorporate requirements specifically set forth in law." 2 U.S.C. 1531. For purposes of the Unfunded Mandates Reform Act, this rule does not include any Federal mandate that may result in increased expenditures by State, local, tribal governments, or increased expenditures by the private sector of more than $100,000,000.

VIII. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have "federalism implications." Executive Order 13132, 64 FR 43255, Aug. 4, 1999. The rule will not "have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." *Id.*

IX. Executive Order 12988 (Civil Justice Reform)

This rule was drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform, and it will not unduly burden the Federal court system. The final rule was: (1) Carefully reviewed to eliminate drafting errors and ambiguities; (2) written to minimize litigation; and (3) provides clear legal standards for affected conduct. The rule also specifies when its provisions apply.

X. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. OWCP will report this rule's promulgation to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States simultaneously with publication of the rule in the **Federal Register**. The report will state that the rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 20 CFR Part 725

Total disability due to pneumoconiosis, Coal miners' entitlement to benefits, Survivors' entitlement to benefits.

For the reasons set forth in the preamble, the Department of Labor amends 20 CFR part 725 as follows:

PART 725—CLAIMS FOR BENEFITS UNDER PART C OF TITLE IV OF THE FEDERAL MINE SAFETY AND HEALTH ACT, AS AMENDED

■ 1. The authority citation for part 725 continues to read as follows:

Authority: 5 U.S.C. 301; Reorganization Plan No. 6 of 1950, 15 FR 3174; 30 U.S.C. 901 *et seq.*, 902(f), 934, 936; 33 U.S.C. 901 *et seq.*; 42 U.S.C. 405; Secretary's Order 10–2009, 74 FR 58834.

■ 2. In § 725.310, revise paragraphs (b), (c) and (d) and add paragraph (e) to read as follows:

§ 725.310 Modification of awards and denials.

* * * * *

(b) Modification proceedings must be conducted in accordance with the provisions of this part as appropriate, except that the claimant and the operator, or group of operators or the fund, as appropriate, are each entitled to submit no more than one additional chest X-ray interpretation, one additional pulmonary function test, one additional arterial blood gas study, and one additional medical report in support of its affirmative case along with such rebuttal evidence and additional statements as are authorized by paragraphs (a)(2)(ii) and (a)(3)(ii) of § 725.414. Modification proceedings may not be initiated before an administrative law judge or the Benefits Review Board.

(c) At the conclusion of modification proceedings before the district director, the district director may issue a proposed decision and order (§ 725.418) or, if appropriate, deny the claim by reason of abandonment (§ 725.409). In any case in which the district director has initiated modification proceedings on his own initiative to alter the terms of an award or denial of benefits issued by an administrative law judge, the district director must, at the conclusion of modification proceedings, forward the claim for a hearing (§ 725.421). In any case forwarded for a hearing, the administrative law judge assigned to hear such case must consider whether any additional evidence submitted by the parties demonstrates a change in condition and, regardless of whether the parties have submitted new evidence, whether the evidence of record demonstrates a mistake in a determination of fact.

(d) An order issued following the conclusion of modification proceedings may terminate, continue, reinstate, increase or decrease benefit payments or award benefits. Such order must not affect any benefits previously paid, except that an order increasing the amount of benefits payable based on a finding of a mistake in a determination of fact may be made effective on the date from which benefits were determined payable by the terms of an earlier award. In the case of an award which is decreased, no payment made in excess of the decreased rate prior to the date upon which the party requested reconsideration under paragraph (a) of this section will be subject to collection or offset under subpart H of this part, provided the claimant is without fault as defined by § 725.543. In the case of an award which is decreased following the initiation of modification by the district director, no payment made in excess of the decreased rate prior to the date upon which the district director initiated modification proceedings under paragraph (a) will be subject to collection or offset under subpart H of this part, provided the claimant is without fault as defined by § 725.543. In the case of an award which has become final and is thereafter terminated, no payment made prior to the date upon which the party requested reconsideration under paragraph (a) will be subject to collection or offset under subpart H of this part. In the case of an award which has become final and is thereafter terminated following the initiation of modification by the district director, no payment made prior to the date upon which the district director initiated modification proceedings under paragraph (a) will be subject to collection or offset under subpart H of this part.

(e)(1) In this paragraph, an order is "effective" as described in § 725.502(a) and "final" as described in §§ 725.419(d), 725.479(a) or 802.406.

(2) Any modification request by an operator must be denied unless the operator proves that at the time of the request, the operator has:

(i) Paid to the claimant all monetary benefits, including retroactive benefits and interest under § 725.502(b)(2), due under any effective order;

(ii) Paid to the claimant all additional compensation (*see* § 725.607) due under an effective order;

(iii) Paid all medical benefits (*see* § 725.701 *et seq.*) due under any effective award, but only if the order awards payment of specific medical expenses;

(iv) Paid all final orders awarding attorney's fees and expenses under § 725.367 and witness fees under § 725.459, but only if the underlying benefits order is final (*see* § 725.367(b)); and

(v) Reimbursed the Black Lung Disability Trust Fund, with interest, for all benefits paid under the orders described in paragraphs (e)(2)(i) or (iii) of this section and the costs for the medical examination under § 725.406.

(3) The requirements of paragraph (e)(2) of this section are inapplicable to any benefits owed pursuant to an effective but non-final order if the payment of such benefits has been stayed by the Benefits Review Board or appropriate court under 33 U.S.C. 921.

(4) Except as provided by paragraph (e)(5) of this section, the operator must submit all documentary evidence pertaining to its compliance with the requirements of paragraph (e)(2) of this section to the district director concurrently with its request for modification. The claimant is also entitled to submit any relevant evidence to the district director. Absent extraordinary circumstances, no documentary evidence pertaining to the operator's compliance with the requirements of paragraph (e)(2) at the time of the modification request will be admitted into the hearing record or otherwise considered at any later stage of the proceeding.

(5) The requirements imposed by paragraph (e)(2) of this section are continuing in nature. If at any time

during the modification proceedings the operator fails to meet the payment obligations described, the adjudication officer must issue an order to show cause why the operator's modification request should not be denied and afford all parties time to respond to such order. Responses may include evidence pertaining to the operator's continued compliance with the requirements of paragraph (e)(2). If, after the time for response has expired, the adjudication officer determines that the operator is not meeting its obligations, the adjudication officer must deny the operator's modification request.

(6) The denial of a request for modification under this section will not bar any future modification request by the operator, so long as the operator satisfies the requirements of paragraph (e)(2) of this section with each future modification petition.

(7) The provisions of this paragraph apply to all modification requests filed on or after May 26, 2016.

■ 3. Add § 725.413 to subpart E to read as follows:

§ 725.413 Disclosure of medical information.

(a) For purposes of this section, medical information is any written medical data, including data in electronic format, about the miner that a party develops in connection with a claim for benefits, including medical data developed with any prior claim that has not been disclosed previously to the other parties. Medical information includes, but is not limited to—

(1) Any examining physician's written or testimonial assessment of the miner, including the examiner's findings, diagnoses, conclusions, and the results of any tests;

(2) Any other physician's written or testimonial assessment of the miner's respiratory or pulmonary condition;

(3) The results of any test or procedure related to the miner's respiratory or pulmonary condition, including any information relevant to the test or procedure's administration; and

(4) Any physician's or other medical professional's interpretation of the results of any test or procedure related to the miner's respiratory or pulmonary condition.

(b) For purposes of this section, medical information does not include—

(1) Any record of a miner's hospitalization or other medical treatment; or

(2) Communications from a party's representative to a medical expert.

(c) Each party must disclose medical information the party or the party's agent receives by sending a complete copy of the information to all other parties in the claim within 30 days after receipt. If the information is received after the claim is already scheduled for hearing before an administrative law judge, the disclosure must be made at least 20 days before the scheduled hearing is held (*see* § 725.456(b)).

(d) Medical information disclosed under this section must not be considered in adjudicating any claim unless a party designates the information as evidence in the claim.

(e) At the request of any party or on his or her own motion, an adjudication officer may impose sanctions on any party or his or her representative who fails to timely disclose medical information in compliance with this section.

(1) Sanctions must be appropriate to the circumstances and may only be imposed after giving the party an opportunity to demonstrate good cause why disclosure was not made and sanctions are not warranted. In determining an appropriate sanction, the adjudication officer must consider—

(i) Whether the sanction should be mitigated because the party was not represented by an attorney when the information should have been disclosed; and

(ii) Whether the party should not be sanctioned because the failure to disclose was attributable solely to the party's attorney.

(2) Sanctions may include, but are not limited to—

(i) Drawing an adverse inference against the non-disclosing party on the facts relevant to the disclosure;

(ii) Limiting the non-disclosing party's claims, defenses or right to introduce evidence;

(iii) Dismissing the claim proceeding if the non-disclosing party is the claimant and no payments prior to final adjudication have been made to the claimant unless the Director agrees to the dismissal in writing (*see* § 725.465(d));

(iv) Rendering a default decision against the non-disclosing party;

(v) Disqualifying the non-disclosing party's attorney from further participation in the claim proceedings; and

(vi) Relieving a claimant who files a subsequent claim from the impact of § 725.309(c)(6) if the non-disclosed evidence predates the denial of the prior claim and the non-disclosing party is the operator.

(3) Sanctions must not include—

(i) Fines or

(ii) Imprisonment.

(4) Sanctions imposed by a district director are subject to review by an administrative law judge in accordance with the provisions of this part.

(f) This rule applies to—

(1) All claims filed after May 26, 2016;

(2) Pending claims not yet adjudicated by an administrative law judge, except that medical information received prior to May 26, 2016 and not previously disclosed must be provided to the other parties within 60 days of May 26, 2016; and

(3) Pending claims already adjudicated by an administrative law judge where—

(i) The administrative law judge reopens the record for receipt of additional evidence in response to a timely reconsideration motion (*see* § 725.479(b)) or after remand by the Benefits Review Board or a reviewing court; or

(ii) A party requests modification of the award or denial of benefits (*see* § 725.310(a)).

■ 4. In § 725.414, revise paragraphs (a)(1) through (5), (c), and (d) to read as follows:

§ 725.414 Development of evidence.

(a) * * *

(1) For purposes of this section, a medical report is a physician's written assessment of the miner's respiratory or pulmonary condition. A medical report may be prepared by a physician who examined the miner and/or reviewed the available admissible evidence. Supplemental medical reports prepared by the same physician must be considered part of the physician's original medical report. A physician's written assessment of a single objective test, such as a chest X-ray or a pulmonary function test, is not a medical report for purposes of this section.

(2)(i) The claimant is entitled to submit, in support of his affirmative case, no more than two chest X-ray interpretations, the results of no more than two pulmonary function tests, the results of no more than two arterial blood gas studies, no more than one report of an autopsy, no more than one report of each biopsy, and no more than two medical reports. Any chest X-ray interpretations, pulmonary function test results, blood gas studies, autopsy report, biopsy report, and physicians' opinions that appear in a medical report must each be admissible under this paragraph or paragraph (a)(4) of this section.

(ii) The claimant is entitled to submit, in rebuttal of the case presented by the party opposing entitlement, no more than one physician's interpretation of each chest X-ray, pulmonary function test, arterial blood gas study, autopsy or biopsy submitted by the designated responsible operator or the fund, as appropriate, under paragraph (a)(3)(i) or (a)(3)(iii) of this section and by the Director pursuant to § 725.406. In any case in which the party opposing entitlement has submitted the results of other testing pursuant to § 718.107, the claimant is entitled to submit one physician's assessment of each piece of such evidence in rebuttal. In addition, where the responsible operator or fund has submitted rebuttal evidence under paragraph (a)(3)(ii) or (a)(3)(iii) of this section with respect to medical testing submitted by the claimant, the claimant is entitled to submit an additional statement from the physician who originally interpreted the chest X-ray or administered the objective testing. Where the rebuttal evidence tends to undermine the conclusion of a physician who prepared a medical report submitted by the claimant, the claimant is entitled to submit an additional statement from the physician who prepared the medical report explaining his conclusion in light of the rebuttal evidence.

(3)(i) The responsible operator designated pursuant to § 725.410 is entitled to obtain and submit, in support of its affirmative case, no more than two chest X-ray interpretations, the results of no more than two pulmonary function tests, the results of no more than two arterial blood gas studies, no more than one report of an autopsy, no more than one report of each biopsy, and no more than two medical reports. Any chest X-ray interpretations, pulmonary function test results, blood gas studies, autopsy report, biopsy report, and physicians' opinions that appear in a medical report must each be admissible under this paragraph or paragraph (a)(4) of this section. In obtaining such evidence, the responsible operator may not require the miner to travel more than 100 miles from his or her place of residence, or the distance traveled by the miner in obtaining the complete pulmonary evaluation provided by § 725.406 of this part, whichever is greater, unless a trip of greater distance is authorized in writing by the district director. If a miner unreasonably refuses—

(A) To provide the Office or the designated responsible operator with a complete statement of his or her medical history and/or to authorize access to his or her medical records, or

(B) To submit to an evaluation or test requested by the district director or the designated responsible operator, the miner's claim may be denied by reason of abandonment. (*See* § 725.409 of this part).

(ii) The responsible operator is entitled to submit, in rebuttal of the case presented by the claimant, no more than one physician's interpretation of each chest X-ray, pulmonary function test, arterial blood gas study, autopsy or biopsy submitted by the claimant under paragraph (a)(2)(i) of this section and by the Director pursuant to § 725.406. In any case in which the claimant has submitted the results of other testing pursuant to § 718.107, the responsible operator is entitled to submit one physician's assessment of each piece of such evidence in rebuttal. In addition, where the claimant has submitted rebuttal evidence under paragraph (a)(2)(ii) of this section, the responsible operator is entitled to submit an additional statement from the physician who originally interpreted the chest X-ray or administered the objective testing. Where the rebuttal evidence tends to undermine the conclusion of a physician who prepared a medical report submitted by the responsible operator, the responsible operator is entitled to submit an additional statement from the physician who prepared the medical report explaining his conclusion in light of the rebuttal evidence.

(iii) In a case in which the district director has not identified any potentially liable operators, or has dismissed all potentially liable operators under § 725.410(a)(3), or has identified a liable operator that ceases to defend the claim on grounds of an inability to provide for payment of continuing benefits, the district director is entitled to exercise the rights of a responsible operator under this section, except that the evidence obtained in connection with the complete pulmonary evaluation performed pursuant to § 725.406 must be considered evidence obtained and submitted by the Director, OWCP, for purposes of paragraph (a)(3)(i) of this section. In a case involving a dispute concerning medical benefits under § 725.708 of this part, the district director is entitled to develop medical evidence to determine whether the medical bill is compensable under the standard set forth in § 725.701 of this part.

(4) Notwithstanding the limitations in paragraphs (a)(2) and (a)(3) of this section, any record of a miner's hospitalization for a respiratory or pulmonary or related disease, or medical treatment for a respiratory or pulmonary or related disease, may be received into evidence.

(5) A copy of any documentary evidence submitted by a party must be served on all other parties to the claim. If the claimant is not represented by an attorney, the district director must mail a copy of all documentary evidence submitted by the claimant to all other parties to the claim. Following the development and submission of affirmative medical evidence, the parties may submit rebuttal evidence in accordance with the schedule issued by the district director.

* * * * *

(c) *Testimony.* A physician who prepared a medical report admitted under this section may testify with respect to the claim at any formal hearing conducted in accordance with subpart F of this part, or by deposition. If a party has submitted fewer than two medical reports as part of that party's affirmative case under this section, a physician who did not prepare a medical report may testify in lieu of such a medical report. The testimony of such a physician will be considered a medical report for purposes of the limitations provided by this section. A party may offer the testimony of no more than two physicians under the provisions of this section unless the adjudication officer finds good cause under paragraph (b)(1) of § 725.456 of this part. In accordance with the schedule issued by the district director, all parties must notify the district director of the name and current address of any potential witness whose testimony pertains to the liability of a potentially liable operator or the designated responsible operator. Absent such notice, the testimony of a witness relevant to the liability of a potentially liable operator or the designated responsible operator will not be admitted in any hearing conducted with respect to the claim unless the administrative law judge finds that the lack of notice should be excused due to extraordinary circumstances.

(d) Except to the extent permitted by §§ 725.456 and 725.310(b), the limitations set forth in this section apply to all proceedings conducted with respect to a claim, and no documentary evidence pertaining to liability may be admitted in any further proceeding conducted with respect to a claim unless it is submitted to the district director in accordance with this section.

■ 5. In § 725.601, revise paragraphs (b) and (c) to read as follows:

§ 725.601 Enforcement generally.

* * * * *

(b) It is the policy and intent of the Department to vigorously enforce the provisions of this part through the use of the remedies provided by the Act. Accordingly, if an operator refuses to pay benefits with respect to a claim for which the operator has been adjudicated liable, the Director may invoke and execute the lien on the property of the operator as described in § 725.603. Enforcement of this lien must be pursued in an appropriate U.S. district court. If the Director determines that the remedy provided by § 725.603 may not be sufficient to guarantee the continued compliance with the terms of an award or awards against the operator, the Director may in addition seek an injunction in the U.S. district court to prohibit future noncompliance by the operator and such other relief as the court considers appropriate (*see* § 725.604). If an operator unlawfully suspends or terminates the payment of benefits to a claimant, the district director may declare the award in default and proceed in accordance with § 725.605. In all cases payments of additional compensation (*see* § 725.607) and interest (*see* § 725.608) will be sought by the Director or awarded by the district director.

(c) In certain instances the remedies provided by the Act are concurrent; that is, more than one remedy might be appropriate in any given case. In such a case, the Director may select the remedy or remedies appropriate for the enforcement action. In making this selection, the Director shall consider the best interests of the claimant as well as those of the fund.

■ 6. Revise § 725.607 to read as follows:

§ 725.607 Payments of additional compensation.

(a) If any benefits payable under the terms of an award by a district director (§ 725.419(d)), a decision and order filed and served by an administrative law judge (§ 725.478), or a decision filed by the Board or a U.S. court of appeals, are not paid by an operator or other employer ordered to make such payments within 10 days after such payments become due, there will be added to such unpaid benefits an amount equal to 20 percent thereof, which must be paid to the claimant at the same time as, but in addition to, such benefits, unless review of the order making such award is sought as provided in section 21 of the LHWCA and an order staying payments has been issued.

(b) If, on account of an operator's or other employer's failure to pay benefits as provided in paragraph (a) of this section, benefit payments are made by the fund, the eligible claimant will nevertheless be entitled to receive such additional compensation to which he or she may be eligible under paragraph (a), with respect to all amounts paid by the fund on behalf of such operator or other employer.

(c) The fund may not be held liable for payments of additional compensation under any circumstances.

Signed at Washington, DC, this 19th day of April, 2016.

Leonard J. Howie, III,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2016–09525 Filed 4–25–16; 8:45 am]

BILLING CODE 4510–CR–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9763]

RIN 1545–BM20

Determination of Adjusted Applicable Federal Rates Under Section 1288 and the Adjusted Federal Long-Term Rate Under Section 382

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that provide the method to be used to adjust the applicable Federal rates (AFRs) to determine the corresponding rates under section 1288 of the Internal Revenue Code (Code) for tax-exempt obligations (adjusted AFRs) and the method to be used to determine the long-term tax-exempt rate and the adjusted Federal long-term rate under section 382. For tax-exempt obligations, the regulations affect the determination of original issue discount under section 1273 and of total unstated interest under section 483. In addition, the regulations affect the determination of the limitations under sections 382 and 383 on the use of certain operating loss carryforwards, tax credits, and other attributes of corporations following ownership changes.

DATES: *Effective Date:* These regulations are effective on April 26, 2016.

Applicability Dates: For the dates of applicability, see §§ 1.382–12(d) and 1.1288–1(c).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations under section 1288, Jason G. Kurth at (202) 317–6842; concerning the regulations under section 382, William W. Burhop at (202) 317–6847.

SUPPLEMENTARY INFORMATION:

Background

On March 2, 2015, the IRS and the Treasury Department published a notice of proposed rulemaking (REG–136018–13) in the **Federal Register** (80 FR 11141) proposing the method to be used to determine the adjusted AFRs for tax-exempt obligations under section 1288 and the method to be used to determine the long-term tax-exempt rate and the adjusted Federal long-term rate under section 382. No comments were received on the notice of proposed rulemaking. No public hearing was requested or held. Accordingly, this Treasury decision adopts the proposed regulations without substantive change.

Explanation of Provisions

The regulations in this Treasury decision provide the new method by which the Treasury Department and the IRS will determine the adjusted AFRs under section 1288 to take into account the tax exemption for interest on tax-exempt obligations (as defined in section 1275(a)(3) and § 1.1275–1(e)). The regulations also provide that the Treasury Department and the IRS will use the new method to determine the long-term tax-exempt rate and the adjusted Federal long-term rate under section 382(f) to take into account differences between rates on long-term taxable and tax-exempt obligations.

Since November 1986, the adjusted Federal long-term rate published under section 382(f)(2) has been equal to the long-term adjusted AFR with annual compounding published under section 1288(b) in the same month. See Rev. Rul. 86–133 (1986–2 CB 59). For calendar months from November 1986 to February 2013, the Treasury Department determined the adjusted Federal long-term rate and each adjusted AFR described in section 1288(b)(1) by multiplying the corresponding AFR by a fraction (the adjustment factor). The numerator of the adjustment factor was a composite yield of the highest-grade tax-exempt obligations available, which are prime, general obligation tax-exempt obligations. The denominator was a composite yield of U.S. Treasury obligations with maturities similar to those of the tax-exempt obligations. Each of the composite yields was measured over a one-month period.

The IRS published Notice 2013–4 (2013–9 IRB 527) on February 25, 2013, requesting comments on possible modifications to the method by which adjusted AFRs and the adjusted Federal long-term rate are determined. The IRS requested comments on these possible modifications because, since the beginning of 2008, market yields of prime, general obligation tax-exempt obligations had sometimes exceeded market yields of comparable U.S.

Treasury obligations, causing the adjusted Federal long-term rate and each adjusted AFR to exceed the corresponding AFRs. Adjusted rates that are higher than the corresponding AFRs indicate that the adjustment factor no longer served the purposes of sections 1288(b)(1) and 382(f)(2), which were intended to adjust only for the tax exemption. These rates were also inconsistent with the express intention of Congress that the adjusted Federal long-term rate and the long-term tax-exempt rate be lower than the Federal long-term rate. See 2 H.R. Rep. No. 99–841 (Conf. Rep.), 99th Cong., 2d Sess. II–188 (1986) (1986–3 CB (Vol. 4) 1, 188).

Notice 2013–4 also provided that, until the Treasury Department and the IRS issue further guidance, the adjusted AFRs and the long-term tax-exempt rate would continue to be calculated using the adjustment factor, except that the adjustment factor would equal one (1) for any month in which the adjustment factor would otherwise be greater than one or in which the denominator of the adjustment factor would otherwise be less than or equal to zero.

After reviewing comments received in response to Notice 2013–4, the Treasury Department and the IRS issued a notice of proposed rulemaking (REG–136018–13) proposing the regulations that are adopted in this Treasury decision. The regulations use historical market data to create an appropriate adjustment factor based on individual tax rates. The regulations provide that the adjusted AFRs and the adjusted Federal long-term rate for each month will be determined from the appropriate AFRs for that month using the adjustment factor that results from the following calculation: 100 percent—[(a combined tax rate) x (a fixed percentage)].

The tax rate in the adjustment factor is the sum of the maximum individual rate under section 1 and the maximum individual rate under section 1411 for the month to which the rate applies. The fixed percentage is the amount by which that combined tax rate must be multiplied to reflect the historical relationship between the maximum tax rate and the spread between yields of taxable and tax-exempt obligations. The fixed percentage in the adjustment factor is 59 percent, because the yield on tax-exempt obligations from February 1986 to July 2007 was lower than that of comparable taxable obligations by, on average, 59 percent of the maximum individual rate in effect under section 1.

Therefore, the adjustment factor under current tax rates would be 74.39 percent, the result of subtracting 25.61 percent (the product of 43.4 percent (the sum of the current maximum individual rate under section 1 (39.6 percent) and the current maximum individual rate under section 1411 (3.8 percent)) and 59 percent) from 100 percent. If an AFR for a given month were 5 percent, under current tax rates, the corresponding adjusted AFR would be 3.72 percent: The product of 74.39 percent and 5 percent. If that 5 percent AFR were the Federal long-term rate for debt instruments with annual compounding, the adjusted Federal long-term rate under section 382 would likewise be 3.72 percent.

As noted previously, because no comments were received on the proposed regulations, the final regulations adopt the proposed regulations without substantive change.

Effective/Applicability Date

These regulations apply to determine the adjusted AFRs, adjusted Federal long-term rate, and long-term tax-exempt rate beginning with the rates determined during August 2016 that apply during September 2016.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses. No comments were received.

Drafting Information

The principal authors of these regulations are Jason G. Kurth, IRS Office of the Associate Chief Counsel (Financial Institutions and Products) and William W. Burhop, IRS Office of the Associate Chief Counsel (Corporate). However, other personnel from the Treasury Department and the IRS participated in their development.

Availability of IRS Documents

The IRS revenue ruling and notice cited in this Treasury decision are made available by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.382–12 also issued under 26 U.S.C. 382(f) and 26 U.S.C. 382(m). * * *

Section 1.1288–1 also issued under 26 U.S.C. 1288(b). * * *

■ **Par. 2.** Section 1.382–1 is amended by revising the introductory text and adding an entry for § 1.382–12 to read as follows:

§ 1.382–1 Table of contents.

This section lists the captions that appear in the regulations for §§ 1.382–2 through 1.382–12.

* * * * *

§ 1.382–12 Determination of adjusted Federal long-term rate.

(a) In general.

(b) Adjusted Federal long-term rate.

(c) Adjustment factor.

(d) Effective/applicability date.

■ **Par. 3.** Section 1.382–12 is added to read as follows:

§ 1.382–12 Determination of adjusted Federal long-term rate.

(a) *In general.* The long-term tax-exempt rate for an ownership change is the highest of the adjusted Federal long-term rates in effect for any month in the 3-calendar-month period ending with the calendar month in which the change date occurs. For purposes of the previous sentence, the adjusted Federal long-term rate is the Federal long-term rate determined under section 1274(d) (without regard to paragraphs (2) and (3) thereof), adjusted for differences between rates on long-term taxable and tax-exempt obligations. The Secretary calculates the adjusted Federal long-term rate as provided in paragraph (b) of this section. The Internal Revenue Service publishes the long-term tax-exempt rate and the adjusted Federal long-term rate for each month in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii) of this chapter).

(b) *Adjusted Federal long-term rate.* The adjusted Federal long-term rate for a calendar month is the product of the Federal long-term rate determined under section 1274(d) for that month, based on annual compounding, multiplied by the adjustment factor described in paragraph (c) of this section.

(c) *Adjustment factor.* The adjustment factor is a percentage equal to—

(1) The excess of 100 percent, over

(2) The product of—

(i) 59 percent, and

(ii) The sum of the maximum rate in effect under section 1 applicable to individuals and the maximum rate in effect under section 1411 applicable to individuals for the month to which the adjusted applicable Federal rate applies.

(d) *Effective/applicability date.* The rules of this section apply to the determination of the long-term tax-exempt rate and the adjusted Federal long-term rate beginning with the rates determined during August 2016 that apply during September 2016.

■ **Par. 4.** Section 1.1288–1 is added to read as follows:

§ 1.1288–1 Adjustment of applicable Federal rate for tax-exempt obligations.

(a) *In general.* In applying section 483 or section 1274 to a tax-exempt obligation, the applicable Federal rate is adjusted to take into account the tax exemption for interest on the obligation. For each applicable Federal rate determined under section 1274(d), the Secretary computes a corresponding adjusted applicable Federal rate by multiplying the applicable Federal rate by the adjustment factor described in paragraph (b) of this section. The Internal Revenue Service publishes the applicable Federal rates and the adjusted applicable Federal rates for each month in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii) of this chapter).

(b) *Adjustment factor.* The adjustment factor is a percentage equal to—

(1) The excess of 100 percent, over

(2) The product of—

(i) 59 percent, and

(ii) The sum of the maximum rate in effect under section 1 applicable to individuals and the maximum rate in effect under section 1411 applicable to individuals for the month to which the adjusted applicable Federal rate applies.

(c) *Effective/applicability date.* The rules of this section apply to the determination of adjusted applicable Federal rates beginning with the rates determined during August 2016 that apply during September 2016.

John Dalrymple,
Deputy Commissioner for Services and Enforcement.

Approved: April 8, 2016.

Mark J. Mazur,
Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2016–09614 Filed 4–25–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9751]

RIN 1545–BN22

PATH Act Changes to Section 1445; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (TD 9721) that were published in the **Federal Register** on Friday, February 19, 2016 (81 FR 8398). The final regulations are regarding the taxation of, and withholding on, foreign persons upon certain dispositions of, and distributions with respect to, United States real property interests (USRPIs).

DATES: This correction is effective April 26, 2016 and is applicable on or after February 19, 2016.

FOR FURTHER INFORMATION CONTACT: Milton M. Cahn or David A. Levine of the Office of Associate Chief Counsel (International) at (202) 317–6937 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9751) that are the subject of this correction are under section 897 and1445 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9751) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 3.** Section 1.1445–5 is amended by revising the last sentence of paragraph (b)(3)(ii)(A) to read as follows:

§ 1.1445–5 Special rules concerning distributions and other transactions by corporations, partnerships, trusts, and estates.

* * * * *

(b) * * *
(3) * * *
(ii) * * *
(A) * * * In general, a foreign person is a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign estate, but not a qualified foreign pension fund (as defined in section 897(l)) or an entity all of the interests of which are held by a qualified foreign pension fund.

* * * * *

Martin V. Franks,
Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2016–09666 Filed 4–25–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 550

[BOP–1168–F]

RIN 1120–AB68

Drug Abuse Treatment Program

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) revises the Residential Drug Abuse Treatment Program (RDAP) regulations to allow greater inmate participation in the program and positively impact recidivism rates.

DATES: This rule is effective on May 26, 2016.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 353–8248.

SUPPLEMENTARY INFORMATION: In this document, the Bureau revises the Residential Drug Abuse Treatment Program (RDAP) regulations to allow greater inmate participation in the program and positively impact recidivism rates. Specifically, the Bureau (1) removes the regulatory requirement for RDAP written testing because it is more appropriate to assess an inmate's progress through clinical evaluation of behavior change (the written test is no longer used in practice); (2) removes existing regulatory provisions which automatically expel inmates who have committed certain acts (*e.g.,* abuse of drugs or alcohol, violence, attempted escape); (3) limits the time frame for review of prior offenses for early release eligibility purposes to ten years before the date of federal imprisonment; and (4) lessens restrictions relating to early release eligibility.

The proposed rule was published on July 22, 2015, (80 FR 43367). The comment period ended on September 21, 2015. In the proposed rule, we described the following changes:

Section 550.50 Purpose and scope. The regulation previously stated that Bureau facilities have drug abuse treatment specialists who are supervised by a Coordinator and that facilities with residential drug abuse treatment programs (RDAP) should have additional specialists for treatment in the RDAP unit. This is inaccurate. We proposed to change the regulation to explain that the Bureau's drug abuse treatment programs, which include drug abuse education, RDAP and non-residential drug abuse treatment services, are provided by the Psychology Services Department.

We also proposed to make a minor corresponding change in § 550.53(a)(1), which also refers inaccurately to the Drug Abuse Program Coordinator, when instead the course of activities referenced in that regulation is provided by the Psychology Services Department.

Section 550.53 Residential Drug Abuse Treatment Program (RDAP)(f)(2). The Bureau proposed to remove subparagraph (f)(2) of § 550.53, which required inmates to pass RDAP testing procedures and referred to an RDAP exam. The RDAP program no longer includes written testing as a requirement for completion of the program. Instead, RDAP uses clinical observation and clinical evaluation of inmate behavior change to assess readiness for completion. Therefore, the current language is inaccurate and imposes a requirement upon inmates that no longer exists.

In 2010, the Bureau converted the Residential Drug Abuse Treatment Programs to the Modified Therapeutic Community Model of treatment (MTC). This evidenced-based model is designed to assess progress through treatment as determined by the participants' completion of treatment goals and activities on their individualized treatment plan, and demonstrated behavior change. Each participant jointly works with their treatment specialist to create the content of their treatment plan. Every three months, or more often if necessary, each participant meets with their clinical team (four or more treatment staff) to review their progress in treatment. Progress in treatment is determined through assessing the accomplishment of their treatment goals and activities, along with demonstrated behavior change, such as improved personal and social conduct, no disciplinary incidents, etc. Unsatisfactory progress is evident when the participant does not accomplish their treatment goals and does not demonstrate mastery of skill development.

There are several studies about the effectiveness of the MTC model of treatment. The most seminal study pertaining to this topic is titled "Outcome Evaluation of A Prison Therapeutic Community for Substance Abuse Treatment."[1]

This behavioral form of assessing progress is a much more powerful form of assessment than assessing the results of a written test. The written test assesses knowledge, but knowledge does not necessarily demonstrate whether the program has positively affected an individual's behavior or addictive lifestyle.

All of the treatment coordinators in the Bureau have a doctorate degree in psychology. They are well qualified to use their knowledge of treatment and the behavior of individuals suffering from substance abuse to objectively determine if a participant is ready to complete the program. There are three decades of evaluation research that support the efficacy of the therapeutic community model of treatment. The most comprehensive source of program description, theory, and summary of research associated with this model of treatment is found in the book entitled *The Therapeutic Community: Theory, Model, and Method.* New York: Springer Publishing Company, Inc. (De Leon, G. (2000).

Section 550.53(g) Expulsion from RDAP. We proposed to remove § 550.53(g)(3), which required Discipline Hearing Officers (DHOs) to remove an inmate automatically from RDAP if there is a finding that the inmate has committed a prohibited act involving alcohol, drugs, violence, escape, or any 100-level series incident.

Removing the language gives the Bureau more latitude and clinical discretion when determining which inmates should be expelled from the program. Inmates will then only be expelled from RDAP according to criteria in § 550.53(g)(1) which allows inmates to be removed from the program by the Drug Abuse Program Coordinator because of disruptive behavior related to the program or unsatisfactory progress in treatment, and requires at least one formal warning before removal, unless there is documented lack of compliance and the inmate's continued presence would present an immediate problem for staff and other inmates.

Removing paragraph (g)(3) removes the automatic expulsion of inmates committing the listed prohibited acts and allows for greater possibility of continuance of the program for inmates with discipline problems.

Section 550.55(b) Inmates not eligible for early release. We proposed to modify language precluding inmates from consideration for early release if they have a prior felony or misdemeanor conviction for homicide, forcible rape, robbery, aggravated assault, arson, kidnaping, or an offense that involves sexual abuse of minors. The Bureau modifies this language to clarify that we intend to limit consideration of "prior felony or misdemeanor" convictions to those which were imposed *within the ten years prior to the date of sentencing* for the inmate's current commitment. By making this change, the Bureau clarifies that it will not preclude from early release eligibility those inmates whose prior felony or misdemeanor convictions were imposed longer than ten years before the date of sentencing for the inmate's current commitment.

Title 18 U.S.C. 3621(e) provides the Director of the Bureau of Prisons the discretion to grant an early release of up to one year upon the successful completion of a residential drug abuse treatment program. In exercising the Director's statutory discretion, we considered the crimes of homicide, rape, robbery, aggravated assault, arson, and kidnaping. In the FBI's Uniform Crime Reporting (UCR) Program, violent crime is composed of four offenses: Murder and nonnegligent manslaughter, rape, robbery, and aggravated assault. Violent crimes are defined in the UCR Program as those offenses which involve force or threat of force. The Director exercised his discretion, therefore, to include these categories of violent crimes and also expanded the list to include arson and kidnaping, as they also are crimes of an inherently violent nature and particular dangerousness to the public.

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[1] *Wexler, H., Falkin, G., Lipton, D., (1990). Outcome Evaluation of A Prison Therapeutic Community for Substance Abuse Treatment. Criminal Justice and Behavior, vol.17 No.1, March 1990 71–92, 1990 American Association for Correctional Psychology.*

The Director exercises discretion to deny early release eligibility to inmates who have a prior felony or misdemeanor conviction for theses offenses because commission of such offenses rationally reflects the view that such inmates displayed readiness to endanger the public. The UCR explained that "because of the variances in punishment for the same offenses in different state codes, no distinction between felony and misdemeanor crimes was possible."

The application of national standards to the numerous local, state, tribal, and federal prior convictions promotes uniformity, but creates unique issues since each separate entity will have its own criminal statutory schemes in which offenses may be categorized as either misdemeanors or felonies. Limiting the Bureau to an analysis of how an offense is categorized in local, state, tribal, or federal criminal codes, rather than to an analysis of the nature of the prior offense, would effectively prevent the Director from exercising the discretion authorized by 18 U.S.C. 3621(e). Furthermore, eliminating the analysis of prior violent misdemeanor convictions would allow inmates to receive the benefit of early release merely because of the manner in which the prior convictions were categorized.

Additionally, 28 CFR 550.55(b)(6) provides that inmates who have been convicted of an attempt, conspiracy, or other offense which involved certain underlying offenses are also precluded from early release eligibility. Many state statutes provide that "attempt" convictions are to be categorized as one degree lower than the underlying offense (*e.g.,* Alaska Statutes sec. 11.31.100(d), N.C. Gen Stat. sec. 14–2.5, Tex. Penal Code sec. 15.01(d), and Wash. Rev. Code sec. 9A.28.020(3)). Therefore, eliminating the analysis of prior misdemeanor convictions may result in offenders convicted of attempting to commit a precluding offense being found eligible for early release, despite the provisions of 28 CFR 550.55(b)(6).

Further, based on a random sampling of inmates who participated in RDAP but were precluded from RDAP early release eligibility, the Bureau estimates that of the 856 inmates precluded in the year 2014 based only on convictions for prior offense, at least half that number would have been eligible for early release if the Bureau had not considered prior offenses greater than 10 years old. The Fiscal Year 2015 estimated annual marginal rate to incarcerate an inmate in the Bureau of Prisons is $11,324 per inmate. Based on an estimate of 400 inmates released up to a year early if this proposed rule change is made, that could equate to a cost avoidance of over $4.5 million per year.

Also, in § 550.55(b), the Director exercises his discretion to disallow particular categories of inmates from eligibility for early release, including, in (6), those who were convicted of an attempt, conspiracy, or other offense which involved an underlying offense listed in paragraph (b)(4) and/or (b)(5) of § 550.55. We narrowed the language of § 550.55(b)(6) to preclude only those inmates whose prior conviction involved direct knowledge of the underlying criminal activity and who either participated in or directed the underlying criminal activity. This change tailors the regulation to the congressional intent to exclude from early release consideration only those inmates who have been convicted of a violent offense. Furthermore, the changed language expands early release benefits to more inmates.

Beginning in 1991, in coordination with the National Institute on Drug Abuse, the Bureau conducted a 3-year outcome study of the RDAP. Federal Bureau of Prisons (2000). TRIAD Drug Treatment Evaluation Project Final Report of Three-Year Outcomes: Part I. ("TRIAD Study"). The study evaluated the effect of treatment on both male and female inmates (1,842 men and 473 women). This study demonstrates that the Bureau's RDAP makes a positive difference in the lives of inmates and improves public safety.

The TRIAD study showed that the RDAP program is effective in reducing recidivism. Male participants were 16 percent less likely to recidivate and 15 percent less likely to relapse than similarly situated inmates who do not participate in residential drug abuse treatment for up to 3 years after release. The analysis also found that female inmates who participate in RDAP are 18 percent less likely to recidivate than similarly situated female inmates who do not participate in treatment.

The TRIAD study defined criminal recidivism was defined two ways: (1) An arrest for a new offense or (2) an arrest for a new offense *or* supervision revocation. Revocation was defined as occurring only when the revocation was solely the result of a technical violation of one or more conditions of supervision (*e.g.,* detected drug use, failure to report to probation officer). Drug use as a post-release outcome, for the purposes of the study, referred to the *first* occurrence of drug or alcohol use as reported by U.S. Probation officers (*i.e.,* a positive urinalysis (u/a), refusal to submit to a urinalysis, admission of drug use to the probation officer, or a positive breathalyser test).

Offenders who completed the residential drug abuse treatment program and had been released to the community for three years were less likely to be re-arrested or to be detected for drug use than were similar inmates who did not participate in the drug abuse treatment program. Specifically, 44.3 percent of male inmates who completed the program were likely to be re-arrested or revoked within three years after release to supervision in the community, compared to 52.5 percent of those inmates who did not receive such treatment. For women, 24.5 percent of those who completed the residential drug abuse treatment program were arrested or revoked within three years after release, compared to 29.7 percent of the untreated women.

With respect to drug use, 49.4 percent of men who completed treatment were likely to use drugs within 3 years following release, compared to 58.5 percent of those who did not receive treatment. Among female inmates who completed treatment, 35.2 percent were likely to use drugs within the three-year postrelease period in the community, compared to 42.6 percent of those who did not receive such treatment.

Section 550.56 Community Transitional Drug Abuse Treatment Program (TDAT). In addition to changing "Transitional Drug Abuse Treatment Program (TDAT)" to "Community Treatment Services (CTS)" throughout this regulation as indicated earlier, we also deleted paragraph (c), which appears to require that inmates successfully completing RDAP and participating in transitional treatment programming must participate in such programming for one hour per month. The provision in the regulation was an error. It did not relate to Community Treatment Services (CTS), but instead related to RDAP. It was therefore unnecessary to retain this language. The substance of this language will be retained as implementing text in the relevant policy statement as part of RDAP procedures.

Comments: We received a total of 187 comments during the comment period. Approximately 77 were in support of the proposed rule. Eighteen "comments" sent, although captioned as "comments," were not properly phrased as comments because they either related to personal accounts of inmate eligibility for drug abuse treatment and/or early release eligibility, or simply did not address issues raised in the proposed rule. We address the issues raised in the remaining 92 comments below.

Discussion of Comments: In summary, for the reasons discussed below, the Bureau adopts the regulatory changes of the proposed rule without change.

Comment: Inmates with gun possession offenses should be eligible for early release.

Approximately 58 commenters felt that eligibility for early release should be offered for participation in RDAP to inmates with "non-violent" offenses and/or inmates with convictions for offenses in which firearm possession was present but perhaps no evidence of actual use was found.

We have addressed this issue in the final rule published on January 14, 2009 (74 FR 1892), in which we stated the following:

Under 18 U.S.C. 3621(e), the Bureau has the discretion to determine eligibility for early release consideration (*See Lopez* v. *Davis,* 531 U.S. 230 (2001)). The Director of the Bureau exercises discretion to deny early release eligibility to inmates who have a felony conviction for the offenses listed in § 550.55(b)(5)(i)–(iv) because commission of such offenses illustrates a readiness to endanger the public. Denial of early release to all inmates convicted of these offenses rationally reflects the view that, in committing such offenses, these inmates displayed a readiness to endanger another's life.

The Director of the Bureau, in his discretion, chooses to preclude from early release consideration inmates convicted of offenses involving carrying, possession or use of a firearm and offenses that present a serious risk of physical force against person or property, as described in § 550.55(b)(5)(ii) and (iii). Further, in the correctional experience of the Bureau, the offense conduct of both armed offenders and certain recidivists suggests that they pose a particular risk to the public. There is a significant potential for violence from criminals who carry, possess or use firearms.

As the Supreme Court noted in *Lopez* v. *Davis,* "denial of early release to all inmates who possessed a firearm in connection with their current offense rationally reflects the view that such inmates displayed a readiness to endanger another's life." *Id.* at 240. The Bureau adopts this reasoning. The Bureau recognizes that there is a significant potential for violence from criminals who carry, possess or use firearms while engaged in felonious activity. Thus, in the interest of public safety, these inmates should not be released months in advance of completing their sentences.

It is important to note that these inmates are not precluded from participating in the drug abuse treatment program. However, these inmates are not eligible for early release consideration because the specified elements of these offenses pose a significant threat of dangerousness or violent behavior to the public. This threat presents a potential safety risk to the public if inmates who have demonstrated such behavior are released to the community prematurely. Also, early release would undermine the seriousness of these offenses as reflected by the length of the sentence which the court deemed appropriate to impose.

Comment: All inmates participating in any kind of drug treatment should be eligible for early release, violent offenders should be eligible, non-U.S. citizens should be eligible:

Approximately 12 commenters stated that all inmates participating in any type of drug treatment with the Bureau of Prisons should be eligible for early release, including non-U.S. citizens and all other currently non-eligible inmates.

18 U.S.C. 3621(e) only authorizes the Bureau to extend drug abuse treatment participation and eligibility for early release to inmates with "a substance abuse problem," not to all inmates. Although, by statute, inmates without a substance abuse problem may not have the opportunity for early release consideration, § 550.52 allows all inmates to participate in non-residential drug abuse treatment services. The final rule seeks to make the program even more inclusive.

In the final rule, we modify the language of § 550.55(b)(4), which precludes inmates from consideration for early release if they have a prior felony or misdemeanor conviction for homicide, forcible rape, robbery, aggravated assault, arson, kidnaping, or an offense that involves sexual abuse of minors. The Bureau modifies this language to clarify that we intend to limit consideration of "prior felony or misdemeanor" convictions to those which were imposed within the ten years prior to the date of sentencing for the inmate's current commitment. By making this change, the Bureau clarifies that it will not preclude from early release eligibility those inmates whose prior felony or misdemeanor convictions were imposed longer than ten years before the date of sentencing for the inmate's current commitment.

18 U.S.C. 3621(e) provides the Director of the Bureau of Prisons the discretion to grant an early release of up to one year upon the successful completion of a residential drug abuse treatment program. In exercising the Director's statutory discretion, we considered the crimes of homicide, rape, robbery, aggravated assault, arson, and kidnaping. In the FBI's Uniform Crime Reporting (UCR) Program, violent crime is composed of four offenses: Murder and non-negligent manslaughter, rape, robbery, and aggravated assault. Violent crimes are defined in the UCR Program as those offenses which involve force or threat of force. The Director exercised his discretion, therefore, to include these categories of violent crimes and also expanded the list to include arson and kidnaping, as they also are crimes of an inherently violent nature and particular dangerousness to the public.

As mentioned, this change is being made to clarify that inmates will be eligible for early release eligibility if their prior felony or misdemeanor convictions are older than ten years before the date of sentencing for the inmate's current commitment. In other words, for example, if an inmate's prior felony or misdemeanor was imposed nine years before the date of sentencing for the inmate's current commitment, the inmate WILL NOT be considered for early release eligibility. The Director exercises discretion to *deny* early release eligibility to inmates who have a prior felony or misdemeanor conviction for theses offenses (*within the ten years prior to the date of sentencing for the inmate's current commitment*) because commission of such offenses rationally reflects the view that such inmates displayed readiness to endanger the public. The UCR explained that "because of the variances in punishment for the same offenses in different state codes, no distinction between felony and misdemeanor crimes was possible."

It is important to note that the Bureau does not deny drug abuse treatment to any inmates, including inmates who are not U.S. citizens. Instead, we offer several program options, such as a drug abuse education course or non-residential drug abuse treatment to inmates who have drug problems but who do not otherwise meet the admission criteria for the RDAP. These options are currently available for "non-U.S. citizen" inmates.

Comment: All inmates should be eligible for drug treatment.

Several commenters stated that inmates whose records and/or offenses of conviction show no elements of drug abuse should also be permitted to participate in drug treatment.

As noted in response to the previous comment, the Bureau does not deny drug abuse treatment to any inmates. We offer several program options, such as a drug abuse education course or non-residential drug abuse treatment to inmates who have drug problems, as provided in § 550.52, even if they do not meet the admission criteria for the RDAP.

With regard to eligibility for early release, however, as stated earlier, 18 U.S.C. 3621(e) only authorizes the Bureau to extend drug abuse treatment participation and eligibility for early release to inmates with "a substance abuse problem," not to all inmates.

Because the early release is such a powerful incentive, as evidenced by over 5,000 inmates waiting to enter treatment, the Bureau must take appropriate measures to ensure that inmates requesting treatment actually have a substance abuse problem that can be verified with documentation. For those inmates who want treatment but do not have the requisite documentation to enter the RDAP, non-residential counseling services are available and encouraged.

Comment: Inmates eligible for up to a year of early release should have it taken from "time served."

Three commenters felt that if inmates earn early release eligibility, the time should be taken from "time served." While it is unclear from the comments, the Bureau interprets this to mean that the commenters believe that up to a year of early release should be taken from the total amount of time that the inmate has already served, including any time in custody before the date of sentencing. However, the Bureau is bound by statute in this regard. 18 U.S.C. 3621(e)(2)(B) provides that "[t]he period a prisoner convicted of a nonviolent offense remains in custody after successfully completing a treatment program may be reduced by the Bureau of Prisons, but such reduction may not be more than one year from the term the prisoner must otherwise serve." In other words, the early release time must be taken from the term of sentence imposed.

Comment: Inmates who escape should be removed from RDAP.

One commenter felt that inmates who escape should be removed from RDAP. The same commenter also felt that staff should retain discretion to remove inmates who commit 100 series prohibited acts.

In the proposed rule, we proposed to delete language in § 550.53(g)(3) which requires the Drug Abuse Treatment Program Coordinator to remove an inmate *automatically* from RDAP if there is a finding by the Discipline Hearing Officer (DHO) that the inmate has committed a prohibited act involving alcohol, drugs, violence, escape, or any other 100-level series incident. As we stated in the proposed rule, removing the language would give the Bureau more latitude and clinical discretion when determining which inmates should be expelled from the program. The final rule retains this revised language. The Bureau will retain the ability to remove inmates if they commit a 100-level series incident, if, under the criteria in (g)(2), they are given at least one formal warning before removal or when the documented lack fo compliance with program standards is of such mangnitude that an inmate's continued presence would create an immediate and ongoing problem for staff and other inmates, but *automatic* expulsion due to commission of a 100-level prohibited act will not occur.

As stated above, because the *automatic* expulsion language is deleted, inmates will only be expelled from RDAP according to criteria in § 550.53(g)(1) which allows inmates to be removed from the program by the Drug Abuse Program Coordinator because of disruptive behavior related to the program or unsatisfactory progress in treatment, and requires at least one formal warning before removal, unless there is documented lack of compliance and the inmate's continued presence would present an immediate problem for staff and other inmates. Removing paragraph (g)(3) removes the automatic expulsion of inmates committing the listed prohibited acts and allows for greater possibility of continuance of the program for inmates with discipline problems.

Comment: Drug treatment specialists should have some skills in addiction treatment or addiction education.

One commenter felt that drug treatment specialists should be qualified in addiction treatment or education. As we stated in the preamble to the proposed rule, all of the treatment "specialists," also known as "coordinators" in the Bureau have a doctorate degree in psychology. They are well qualified to use their knowledge of treatment and the behavior of individuals suffering from substance abuse to objectively determine if a participant is ready to complete the program.

Comment: Increase incentives for those who participate in drug treatment but are not eligible for early release.

Two commenters believed that the Bureau should increase the incentives that are available for inmates who participate in drug treatment but may not be eligible for early release. Currently, 28 CFR 550.54 describes possible incentives for RDAP participation, including limited financial awards, community-based treatment programs, preferred living quarters, special recognition privileges, achievement awards, and formal consideration for a nearer release transfer for medium and low security inmates. The Bureau believes the allowance of these incentives is adequate.

Comment: RDAP waiting lists are too long.

One commenter felt that inmate waiting lists for participation in RDAP treatment are too long. Currently, the Bureau has over 5,000 inmates waiting for residential treatment that is provided with limited Bureau resources. Inmates are selected for admission based on their proximity to release. Those nearest to release enter the program first. Using this method, we are able to ensure all inmates who qualify for the program, and volunteer to participate, are able to complete the program before their release from prison.

Comment: RDAP should be only 6 months instead of 9 months.

One commenter felt that the 9-month RDAP was "too long" and that the program should instead be no more than 6 months.

Research of prison drug treatment programs has shown a greater percentage of success in treatment if a unit-based component of the treatment lasts for nine to twelve months. One study found a strong relationship between time-in-program and treatment outcomes. Wexler, Falkin, & Lipton: *Outcome Evaluation of A Prison Therapeutic Community for Substance Abuse Treatment.* Criminal Justice and Behavior, Vol. 17 No. 1, March 1990. In this study, of the male inmates who participated in a drug treatment program, the percentage of those who had no parole violations during community supervision rose from 49 percent for those who remained less than three months to 77 percent for parolees who were in the program between nine and twelve months while in prison. Similar findings were obtained for females, although the percentage of those who had no parole violations was higher than for their male counterparts (79 percent for those who remained in treatment less than three months to the entire program and 92 percent for those who completed the nine- to twelve-month program). Additionally, the study also found that individuals who participate in a prison-based drug treatment for longer than twelve months do not have outcomes that are as successful as those who participated for nine to twelve months. An intensive residential treatment period between nine and twelve months near the end of an offender's sentence, coupled with individually tailored community transitional services program, may provide the best clinical outcomes and optimal resource utilization.

Also, the National Institute on Drug Abuse funded three large-scale National Treatment evaluations covering three decades, the 1970s, 1980s, and 1990s. Collectively, these studies—known as the Drug Abuse Reporting Program, the Treatment Outcome Prospective Study and the Drug Abuse Treatment Outcome Study, examined treatment performance and predictors of treatment outcomes for samples of 65,000 individuals admitted for drug abuse treatment. NIH Publication Number 02–4877, August 2002. This NIH Publication provides one of the most comprehensive overviews of the most salient research findings derived from the 250 publications. Findings from publications based on this research give broad support for the effectiveness of treatment, particularly for those with an adequate length of stay.

The Bureau's inmate population generally tends toward greater instances of addictive disorders, anti-social personality disorders, and other types of disorders, such as depression, anxiety, etc. These additional issues, which must be dealt with when treating an inmate's substance abuse problem, increase the difficulty of successfully treating an inmate within a six-month period. Although the Bureau makes specific treatment decisions for inmates on a case-by-case basis, based on the above research, and given the greater difficulty inherent in maintaining the success of drug treatment for inmates, we chose to require the unit-based component to be at least nine to twelve months to afford the greatest likelihood of success in treatment.

Comment: Staff should receive training regarding lesbian, gay, bisexual and transgender sensitivity issues.

One commenter stated that "[b]ecause [lesbian, gay, bisexual and transgender] LGBTQ people face additional challenges while incarcerated, from physical safety to accessing health care, we recommend that all treatment specialists receive cultural competency training to best address the needs of LGBTQ prisoners in RDAP."

The Bureau agrees with this important concern. All Bureau staff receive training both at the start of their employment and annually regarding the Bureau's anti-discrimination policy, including cultural competency training to best address the needs of LGBTQ prisoners in RDAP. It is the policy of the Bureau of Prisons to "eliminate any internal policy, practice, or procedure that results in discrimination on the basis of race, color, sex, religion, national origin, age, physical or mental disability, genetic information, equal pay, pregnancy, retaliation, sexual orientation, gender identity, or status as a parent" Bureau of Prisons Anti-Discrimination Policy, PS 3713.25, June 16, 2014.

Executive Orders 12866 and 13563

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review," section 1(b), Principles of Regulation, and Executive Order 13563, "Improving Regulation and Regulatory Review." These executive orders direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Director, Bureau of Prisons has determined that this rule is a "significant regulatory action" under Executive Order 12866, section 3(f), and accordingly this rule has been reviewed by the Office of Management and Budget.

As context regarding the current impact of the RDAP (*i.e.*, prior to the changes made in this rule), 18,102 inmates participated in the residential drug abuse treatment program in FY 2014. 18 U.S.C. 3621(e)(2) allows the Bureau to grant a non-violent offender up to one year off his/her term of imprisonment for successful completion of the RDAP. In FY 2014, 5,229 inmates received a reduction in their term of imprisonment resulting in a cost avoidance of nearly $50 million based on this law (average reduction was 10.4 months and the marginal cost avoidance was $10,994 annually). The changes made by this rule will likely increase the number of current inmates who benefit from the RDAP program and increase the number of inmates who may be eligible for early release, thereby resulting in cost avoidance to the Bureau in the future.

For instance, with regard to § 550.55(b)(6), changing "other offense" to "solicitation to commit," based on prior year data (from 2014), we estimate that approximately 45 inmates would be made eligible for early release as a result of the changes made by this rule.

Since 2013, the Bureau was able to expand RDAP capacity due to increased funding through annual congressional budgeting processes. The Bureau will therefore not require more resources in order to put more individuals through RDAP. RDAP is a nine-month program. The program has a treatment capacity large enough to accommodate about 8,400 participants at any given time. This number also reflects inmates who may drop out of the program and are replaced with other inmates on the wait list. Therefore, during a 12-month period, program capacity is filled twice (8,400 inmates will complete one nine-month term, and another 8,400 inmates will begin a new nine-month term), which means that at least 16,800 participants can be included in the program in a given year.

Executive Order 13132

This regulation would not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rulemaking does not have sufficient federalism implications for which we would prepare a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation. By approving it, the Director certifies that it will not have a significant economic impact upon a substantial number of small entities because: This rule is about the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not cause State, local and tribal governments, or the private sector, to spend $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. We do not need to take action under the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule would not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 550: Prisoners.

Kathleen M. Kenney,

Assistant Director/General Counsel, Federal Bureau of Prisons.

Accordingly, for the reasons set forth in the preamble, part 550 of title 28 of the Code of Federal Regulations is amended as follows:

PART 550—DRUG PROGRAMS

■ 1. The authority citation for part 550 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3521–3528, 3621, 3622, 3624, 4001, 4042, 4046, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 21 U.S.C. 848; 28 U.S.C. 509, 510; Title V, Pub. L. 91–452, 84 Stat. 933 (18 U.S.C. Chapter 223).

■ 2. Revise § 550.50 to read as follows:

§ 550.50 Purpose and scope.

The purpose of this subpart is to describe the Bureau's drug abuse treatment programs for the inmate population, to include drug abuse education, non-residential drug abuse treatment services, and residential drug abuse treatment programs (RDAP). These services are provided by Psychology Services department.

■ 3. Amend § 550.53 by revising paragraphs (a)(1), (a)(3), and (f), removing paragraph (g)(3), and redesignating paragraph (g)(4) as new paragraph (g)(3) to read as follows:

§ 550.53 Residential Drug Abuse Treatment Program (RDAP).

(a) * * *

(1) *Unit-based component.* Inmates must complete a course of activities provided by the Psychology Services Department in a treatment unit set apart from the general prison population. This component must last at least six months.

* * * * *

(3) *Community Treatment Services (CTS).* Inmates who have completed the unit-based program and (when appropriate) the follow-up treatment and transferred to a community-based program must complete CTS to have successfully completed RDAP and receive incentives. The Warden, on the basis of his or her discretion, may find an inmate ineligible for participation in a community-based program; therefore, the inmate cannot complete RDAP.

* * * * *

(f) *Completing the unit-based component of RDAP.* To complete the unit-based component of RDAP, inmates must have satisfactory attendance and participation in all RDAP activities.

* * * * *

■ 4. In § 550.55, revise paragraph (b)(4) introductory text and paragraph (b)(6), to read as follows:

§ 550.55 Eligibility for early release.

* * * * *

(b) * * *

(4) Inmates who have a prior felony or misdemeanor conviction within the ten years prior to the date of sentencing for their current commitment for:

* * * * *

(6) Inmates who have been convicted of an attempt, conspiracy, or solicitation to commit an underlying offense listed in paragraph (b)(4) and/or (b)(5) of this section; or

* * * * *

■ 5. Revise § 550.56 to read as follows:

§ 550.56 Community Treatment Services (CTS).

(a) For inmates to successfully complete all components of RDAP, they must participate in CTS. If inmates refuse or fail to complete CTS, they fail RDAP and are disqualified for any additional incentives.

(b) Inmates with a documented drug use problem who did not choose to participate in RDAP may be required to participate in CTS as a condition of participation in a community-based program, with the approval of the Supervisory Community Treatment Services Coordinator.

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BILLING CODE 4410–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0338]

Drawbridge Operation Regulation; Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the upper deck of the Steel Bridge across the Willamette River, mile 12.1, at Portland, OR. The deviation is necessary to accommodate the route of the annual Starlight Parade event. This deviation allows the upper deck of the Steel Bridge to remain in the closed-to-navigation position to allow for the safe movement of event participants.

DATES: This deviation is effective from 7 p.m. to 11:30 p.m. on June 4, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–0338] is available at *http://www.regulations.gov.* Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *d13-pf-d13bridges@uscg.mil.*

SUPPLEMENTARY INFORMATION: TriMet Public Transit requested the upper deck of the Steel Bridge remain closed-to-navigation to accommodate the annual Starlight Parade event. The Steel Bridge crosses the Willamette River at mile 12.1 and is a double-deck lift bridge with a lower lift deck and an upper lift deck which operate independent of each other. When both decks are in the down position the bridge provides 26 feet of vertical clearance above Columbia River Datum 0.0. When the lower deck is in the up position the bridge provides 71 feet of vertical clearance above Columbia River Datum 0.0. The normal operating schedule for the Steel Bridge is in accordance with 33 CFR 117.897(c)(3)(ii). This deviation period is from 7 p.m. to 11:30 p.m. on June 4, 2016. The deviation allows the upper deck of the Steel Bridge to remain in the closed-to-navigation position and need not open for maritime traffic from 7 p.m. to 11:30 p.m. on June 4, 2016.

Waterway usage on this part of the Willamette River includes vessels ranging from commercial tug and barge to small pleasure craft. Vessels able to pass through the bridge in the closed positions may do so at anytime. The bridge will be able to open for emergencies, and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: April 20, 2016.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2016–09629 Filed 4–25–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0285]

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, South Branch of the Elizabeth River, Chesapeake, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Norfolk Southern #7 Railroad Bridge across the Atlantic Intracoastal Waterway, South Branch of the Elizabeth River, mile 5.8, at Chesapeake, VA. The deviation is necessary to perform urgent bridge repairs. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: This deviation is effective without actual notice from April 26, 2016 through 1 p.m. on June 9, 2016. For the purposes of enforcement, actual notice will be used from 9 a.m. on April 25, 2016, until April 26, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–0285] is available at *http://www.regulations.gov.* Type the docket number in the "SEARCH" box and click "SEARCH". Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mrs. Traci Whitfield, Bridge Administration Branch Fifth District, Coast Guard; telephone (757) 398–6629, email *Traci.G.Whitfield@uscg.mil.*

SUPPLEMENTARY INFORMATION: Norfolk Southern, the bridge owner that operates the #7 Railroad Bridge, has requested a temporary deviation from the current operating regulation to perform urgent repairs by changing the flat tracks across the north and south girders in two phases. The bridge is a single bascule span and has a vertical clearance in the closed position of seven feet above mean high water.

Under this temporary deviation, the bridge will remain in the closed-to-navigation position from 9 a.m. to 1 p.m. Monday through Thursday, April 25 to May 26, 2016; and from 9 a.m. to 1 p.m. Monday through Thursday, June 6 to June 9, 2016. At all other times, the bridge will operate in accordance with the operating regulations set out in 33 CFR 117.997(d).

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will not be able to open for emergencies and there is no alternate route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: April 21, 2016.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2016–09659 Filed 4–25–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0307]

Drawbridge Operation Regulation; Three Mile Slough, Rio Vista, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Highway 160 drawbridge across Three Mile Slough, mile 0.1, at Rio Vista, CA. The deviation is necessary to allow the bridge owner to complete the necessary sand blasting and painting rehabilitation. This deviation allows the bridge to be secured in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective without actual notice from April 26, 2016 through 11:59 p.m. on April 30, 2016. For the purposes of enforcement, actual notice will be used from 12:01 a.m. on April 18, 2016, until April 26, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–0307], is available at *http://www.regulations.gov.* Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *David.H.Sulouff@uscg.mil.*

SUPPLEMENTARY INFORMATION: The California Department of Transportation has requested a temporary change to the operation of the Highway 160 drawbridge, mile 0.1, over Three Mile Slough, at Rio Vista, CA. The drawbridge navigation span provides 12 feet vertical clearance above Mean High Water in the closed-to-navigation position. In accordance with 33 CFR 117.5, the draw opens on signal. Navigation on the waterway is commercial, search and rescue, law enforcement, and recreational.

The drawbridge will be secured in the closed-to-navigation position from 12:01 a.m. on April 18, 2016 to 11:59 p.m. on April 30, 2016, to allow the bridge owner to complete the necessary sand blasting and painting rehabilitation after unforeseen events have caused project delays. A containment scaffolding system has been installed below low steel of the entire length of the bridge structure, reducing vertical clearance for navigation by not more than 4 feet, and is lighted at night with red lights. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will not be able to open for emergencies. The confluence of the San Joaquin and Sacramento rivers can be used as an alternate route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform waterway users through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: April 12, 2016.

D.H. Sulouff,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2016–09676 Filed 4–25–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0002; FRL–9945–47–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; 2011 Base Year Inventories for the 2008 8-Hour Ozone National Ambient Air Quality Standard for the Allentown-Bethlehem-Easton, Lancaster, Pittsburgh-Beaver Valley, and Reading Areas, and the Pennsylvania Portion of the Philadelphia-Wilmington-Atlantic City Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve the 2011 base year inventories for the five Pennsylvania marginal nonattainment areas for the 2008 8-hour ozone national ambient air quality standard (NAAQS), the Allentown-Bethlehem-Easton, Lancaster, Pittsburgh-Beaver Valley, and Reading nonattainment areas and the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City nonattainment area. The Commonwealth of Pennsylvania submitted the emission inventories to meet the nonattainment requirements for marginal ozone nonattainment areas for the 2008 8-hour ozone NAAQS. EPA is approving the 2011 base year emissions inventories for the 2008 8-hour ozone NAAQS as a revision to the Pennsylvania State Implementation Plan (SIP), in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on June 27, 2016 without further notice, unless EPA receives adverse written comment by May 26, 2016. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2016–0002 at *http://www.regulations.gov*, or via email to *fernandez.cristina@epa.gov*. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, (215) 814–2181, or by email at *pino.maria@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Ground-level ozone is formed when nitrogen oxides (NO_X) and volatile organic compounds (VOC) react in the presence of sunlight. Referred to as ozone precursors, these two pollutants are emitted by many types of pollution sources, including motor vehicles, power plants, industrial facilities, and area wide sources, such as consumer products and lawn and garden equipment. Scientific evidence indicates that adverse public health effects occur following a person's exposure to ozone. These effects are more pronounced in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases. In 1979, in response to this scientific evidence, EPA promulgated the first ozone NAAQS, the 0.12 part per million (ppm) 1-hour ozone NAAQS. *See* 44 FR 8202 (February 8, 1979). EPA had previously promulgated a NAAQS for total photochemical oxidants.

On July 18, 1997, EPA promulgated a revised ozone NAAQS of 0.08 ppm, averaged over eight hours. 62 FR 38855. This standard was determined to be more protective of public health than the previous 1979 1-hour ozone standard. In 2008, EPA revised the 8-hour ozone NAAQS from 0.08 to 0.075 ppm. *See* 73 FR 16436 (March 27, 2008). On May 21, 2012, the Allentown-Bethlehem-Easton, Lancaster, Pittsburgh-Beaver Valley, Reading, and Philadelphia-Wilmington-Atlantic City areas were designated as marginal nonattainment for the more stringent 2008 8-hour ozone NAAQS. 77 FR 30088.

The Allentown-Bethlehem-Easton nonattainment area is comprised of Carbon, Lehigh, and Northampton Counties, all in Pennsylvania. Lancaster and Reading are single-county nonattainment areas, comprised of Lancaster County, Pennsylvania and Berks County, Pennsylvania, respectively. The Pittsburgh-Beaver Valley nonattainment area is comprised of Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties, all in Pennsylvania. The Philadelphia-Wilmington-Atlantic City nonattainment areas includes Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties in Pennsylvania, plus counties in Delaware, Maryland, and New Jersey. Under section 172(c)(3) of the CAA, Pennsylvania is required to submit comprehensive, accurate, and current inventories of actual emissions from all sources of the relevant pollutants in its marginal nonattainment areas, *i.e.*, the Allentown-Bethlehem-Easton, Lancaster, Pittsburgh-Beaver Valley, and Reading nonattainment areas, and the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City nonattainment area.

On October 1, 2015, EPA strengthened the ground-level ozone NAAQS to 0.070 ppm, based on extensive scientific evidence about ozone's effects on public health and welfare. *See* 80 FR 65292 (October 26, 2015). As required by section 107(d) of the CAA, EPA intends to complete the initial designation process within two years of promulgation of the 2015 ozone NAAQS, *i.e.*, no later than October 1, 2017. This rulemaking does not address the 2015 ozone NAAQS.

II. Summary of SIP Revision

Under CAA section 172(c)(3), states are required to submit a comprehensive, accurate, current accounting of actual emissions from all sources (point, nonpoint, nonroad, and onroad) in the nonattainment area. CAA section 182(a)(1) requires that areas designated as nonattainment and classified as marginal are to submit an inventory of all sources of ozone precursors no later than 2 years after the effective date of designation. EPA's guidance for emissions inventory development calls for actual emissions to be used in the base year inventory. The state must report annual emissions as well as "summer day emissions." As defined in 40 CFR 51.900(v), "summer day emissions" means, "an average day's emissions for a typical summer work weekday. The state will select the particular month(s) in summer and the day(s) in the work week to be represented."

On September 30, 2015, the Pennsylvania Department of Environmental Protection (PADEP), submitted a SIP revision entitled, "2011 Base Year Inventory for the Pennsylvania Portion of Five 2008 Ozone Nonattainment Areas: Allentown-Bethlehem-Easton, Lancaster, Philadelphia-Wilmington-Atlantic City, Pittsburgh-Beaver Valley, Reading." PADEP selected 2011 as its base year for SIP planning purposes, as recommended in EPA's final rule, "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements." 80 FR 12263 (March 6, 2015). PADEP's 2011 base year inventories include emissions estimates covering the general source categories of stationary point, stationary nonpoint, nonroad mobile, and onroad mobile. In its 2011 base year inventories, PADEP reported actual annual emissions and typical summer day emissions for the months of May through September for NO_X, VOC, and carbon monoxide (CO).

Tables 1 through 5 summarize the 2011 VOC, NO_X, and CO emission inventory by source sector for Pennsylvania's five marginal nonattainment areas. Annual emissions are given in tons per year (tpy), and summer weekday emissions are given in tons per day (tpd).

TABLE 1—SUMMARY OF 2011 EMISSIONS FOR THE ALLENTOWN-BETHLEHEM-EASTON AREA

Source sector	Summer weekday (tpd)			Annual (tpy)		
	VOC	NO_X	CO	VOC	NO_X	CO
Point	3.5844	24.0763	44.5565	1,298.2944	8,882.4313	15,980.1187
Nonpoint	52.4620	4.3983	10.7226	21,874.0747	2,365.4084	17,758.0824
Nonroad	7.3491	8.4916	81.1983	2,624.7749	2,372.2160	26,305.6727
Highway	17.1800	35.5600	172.5900	6,169.9800	12,833.6100	76,800.1200
Total	80.5755	72.5262	309.0674	31,967.1240	26,453.6657	136,843.9938

TABLE 2—SUMMARY OF 2011 EMISSIONS FOR THE LANCASTER AREA

Source sector	Summer weekday (tpd)			Annual (tpy)		
	VOC	NO_X	CO	VOC	NO_X	CO
Point	6.0096	3.3279	4.9232	2,161.8035	1,225.2810	1,811.4742
Nonpoint	31.6881	4.1839	14.0763	13,262.0758	2,043.6030	13,992.7848
Nonroad	9.4751	8.1193	75.9137	3,854.6239	2,369.2314	26,064.9100
Highway	11.9900	24.4200	121.0300	4,233.6300	8,879.1200	52,716.3700
Total	59.1628	40.0511	215.9432	23,512.1332	14,571.2354	94,585.5390

TABLE 3—SUMMARY OF 2011 EMISSIONS FOR THE PENNSYLVANIA PORTION OF THE PHILADELPHIA-WILMINGTON-ATLANTIC CITY AREA

Source sector	Summer weekday (tpd)			Annual (tpy)		
	VOC	NO_X	CO	VOC	NO_X	CO
Point	13.8162	39.8652	35.4149	5,044.1788	14,466.8247	12,605.2393
Nonpoint	144.0575	27.7843	24.6034	55,434.4159	14,394.6064	27,032.5230
Nonroad	41.8480	39.2817	510.4407	14,368.4324	11,090.2074	162,745.4696
Highway	60.5800	123.3900	631.6900	21,497.8300	43,869.0400	259,855.7300
Total	260.3017	230.3212	1,202.1490	96,344.8571	83,820.6785	462,238.9619

TABLE 4—SUMMARY OF 2011 EMISSIONS FOR THE PITTSBURGH-BEAVER VALLEY AREA

Source sector	Summer weekday (tpd)			Annual (tpy)		
	VOC	NO_X	CO	VOC	NO_X	CO
Point	10.6595	160.0714	120.1636	3,900.9235	57,329.8382	43,988.6819

TABLE 4—SUMMARY OF 2011 EMISSIONS FOR THE PITTSBURGH-BEAVER VALLEY AREA—Continued

Source sector	Summer weekday (tpd)			Annual (tpy)		
	VOC	NO_X	CO	VOC	NO_X	CO
Nonpoint	191.5216	65.3470	85.7973	63,326.9810	27,064.6374	49,340.2937
Nonroad	24.8491	27.7845	284.5770	9,281.1724	7,908.6977	93,498.8397
Highway	43.5400	88.8500	446.6400	16,584.5300	32,360.4000	210,881.4800
Total	270.5702	342.0529	937.1779	93,093.6069	124,663.5733	397,709.2953

TABLE 5—SUMMARY OF 2011 EMISSIONS FOR THE READING AREA

Source sector	Summer weekday (tpd)			Annual (tpy)		
	VOC	NO_X	CO	VOC	NO_X	CO
Point	3.4007	8.6847	5.4075	1,223.7618	3,139.5588	1,946.4482
Nonpoint	32.6838	4.2975	11.0720	13,462.6586	2,055.8245	11,792.2040
Nonroad	4.5626	5.4649	46.8275	1,650.9746	1,528.6220	15,312.2966
Highway	9.8600	22.1100	98.8800	3,479.3500	8,073.1900	43,022.4700
Total	50.5071	40.5571	162.1870	19,816.7450	14,797.3983	72,073.4188

Point sources are large, stationary, identifiable sources of emissions that release pollutants into the atmosphere. Pennsylvania obtained its point source data from the Pennsylvania Air Information Management System (AIMS). PADEP regional offices identify and inventory stationary sources for AIMS through inspections, surveys, and permitting. Inventory data for point sources in Allegheny and Philadelphia Counties was developed by the Allegheny County Health Department (ACHD) and the Philadelphia Air Management Services (AMS), respectively. ACHD and AMS provided their point source data to PADEP and also submitted it to EPA for the National Emission Inventory (NEI).

Nonpoint sources, also known as area sources, are sources of pollution that are small and numerous, and that have not been inventoried as specific point or mobile sources. To inventory these sources, they are grouped so that emissions can be estimated collectively using one methodology. Examples are residential heating emissions and consumer solvents. PADEP calculated nonpoint emissions for each county by multiplying emissions factors specific for each source category with some known indicator of collective activity for each source category, such as population or employment data.

Nonroad sources are mobile sources other than onroad vehicles, including aircraft, locomotives, construction and agricultural equipment, and marine vessels. Emissions from different source categories are calculated using various methodologies. PADEP relied on EPA's nonroad emissions calculations, from the 2011 NEI, version 1. Onroad or highway sources are vehicles, such as cars, trucks, and buses, which are operated on public roadways. PADEP estimated highway emissions using EPA's Motor Vehicle Emission Simulator (MOVES) model, version 2010b.

EPA reviewed Pennsylvania's 2011 base year emission inventories' results, procedures, and methodologies for the Allentown-Bethlehem-Easton, Lancaster, Pittsburgh-Beaver Valley, and Reading nonattainment areas and the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City nonattainment area and found them to be acceptable and approvable. EPA's review is detailed in two Technical Support Documents (TSD) prepared for this rulemaking, the January 7, 2016 "Technical Support Document (TSD) for the 2011 Base Year Inventory for Areas of Marginal Nonattainment of the 2008 Ozone NAAQS in Pennsylvania" and the January 21, 2016, "Technical Support Document (TSD)—Review of the On-Road Portion of the 2011 Base Year Inventories for the Pennsylvania Portion of the Following Five 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) Nonattainment Areas: Allentown-Bethlehem-Easton, Lancaster, Philadelphia-Wilmington-Atlantic City, Pittsburgh-Beaver Valley, and Reading." These TSDs are available on line at *http://www.regulations.gov*, Docket ID No. EPA–R03–OAR–2016–0002.

III. Final Action

EPA is approving the 2011 base year inventories for the 2008 8-hour ozone NAAQS for the Allentown-Bethlehem-Easton, Lancaster, Pittsburgh-Beaver Valley, and Reading nonattainment areas, and the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City nonattainment area because the inventories were prepared in accordance with requirements in sections 172(c)(3) and 182(a) of the CAA and its implementing regulations including 40 CFR 51.915. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on June 27, 2016 without further notice unless EPA receives adverse comment by May 26, 2016. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 27, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action.

This action approving Pennsylvania's 2011 base year inventories for the 2008 8-hour ozone NAAQS for the Allentown-Bethlehem-Easton, Lancaster, Pittsburgh-Beaver Valley, and Reading nonattainment areas, and the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City nonattainment area may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 8, 2016.

Shawn M. Garvin,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by adding the entry for "2011 Base Year Inventories for the 2008 8-Hour Ozone National Ambient Air Quality Standard" at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(e) * * *

(1) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	* *	*	*	*
2011 Base Year Inventories for the 2008 8-Hour Ozone National Ambient Air Quality Standard.	Allentown-Bethlehem-Easton, Lancaster, Pittsburgh-Beaver Valley, and Reading nonattainment areas and the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City nonattainment area.	9/30/15	4/26/16 [Insert **Federal Register** citation].	See § 52.2036(bb).

* * * * *

■ 3. Section 52.2036 is amended by adding paragraph (bb) to read as follows:

§ 52.2036 Base year emissions inventory.

* * * * *

(bb) EPA approves, as a revision to the Pennsylvania State Implementation Plan, the 2011 base year emissions inventories for the Allentown-Bethlehem-Easton, Lancaster, Pittsburgh-Beaver Valley, and Reading nonattainment areas, and the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City nonattainment area for the 2008 8-hour ozone national ambient air quality standard submitted by the Pennsylvania Department of the Environmental on September 30, 2015. The 2011 base year emissions inventories includes emissions estimates that cover the general source categories of point sources, nonroad mobile sources, area sources, onroad mobile sources, and biogenic sources. The pollutants that comprise the inventory are nitrogen oxides (NO_X), volatile organic compounds (VOC), and carbon monoxide (CO).

[FR Doc. 2016–09591 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2015–0150; FRL–9945–62–Region 4]

Air Quality Plans; North Carolina; Infrastructure Requirements for the 2010 Sulfur Dioxide National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve portions of the State Implementation Plan (SIP) submission, submitted by the State of North Carolina, through the Department of Environmental Quality, formerly the Department of Environment and Natural Resources, Division of Air Quality (DAQ), on March 18, 2014, for inclusion into the North Carolina SIP. This final action pertains to the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2010 1-hour sulfur dioxide (SO_2) national ambient air quality standard (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an "infrastructure SIP submission." DAQ certified that the North Carolina SIP contains provisions that ensure the 2010 1-hour SO_2 NAAQS is implemented, enforced, and maintained in North Carolina. EPA has determined that the North Carolina's infrastructure SIP submission, provided to EPA on March 18, 2014, satisfies certain required infrastructure elements for the 2010 1-hour SO_2 NAAQS.

DATES: This rule will be effective May 26, 2016.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2015–0150. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Notarianni can be reached via electronic mail at *notarianni.michele@epa.gov* or via telephone at (404) 562–9031.

SUPPLEMENTARY INFORMATION:

I. Background and Overview

On June 22, 2010 (75 FR 35520), EPA revised the primary SO_2 NAAQS to an hourly standard of 75 parts per billion (ppb) based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 2010 1-hour SO_2 NAAQS to EPA no later than June 2, 2013.[1]

In a proposed rulemaking published on February 25, 2016, EPA proposed to approve North Carolina's 2010 1-hour SO_2 NAAQS infrastructure SIP submission submitted on March 18, 2014, with the exception of the PSD permitting requirements for major sources of section 110(a)(2)(C) and (J), the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1 through 4), and state boards requirements of section 110(a)(2)(E)(ii).[2] *See* 81 FR 9398. The details of North Carolina's submission and the rationale for EPA's actions are explained in the proposed rulemaking. Comments on the proposed rulemaking were due on or before March 28, 2016. EPA received no comments on the proposed action.

II. Final Action

With the exception of the PSD permitting requirements for major sources of section 110(a)(2)(C) and (J), the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1 through 4), and state boards requirements of section 110(a)(2)(E)(ii), EPA is taking final action to approve North Carolina's infrastructure submission submitted on March 18, 2014, for the 2010 1-hour SO_2 NAAQS. EPA is taking final action to approve portions of North Carolina's infrastructure SIP submission for the 2010 1-hour SO_2 NAAQS because the submission is consistent with section 110 of the CAA.

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[1] Today, EPA is providing clarification for an inadvertent typographical error that was included in the February 25, 2016, proposed rulemaking, for this final action. In the February 25, 2016, proposed rulemaking it was stated that the 2010 1-hour SO_2 NAAQS infrastructure SIPs were due no later than June 22, 2013. The 2010 1-hour SO_2 NAAQS infrastructure SIPs were actually due to EPA from states no later than June 2, 2013.

[2] On November 3, 2015, in a previous rulemaking, EPA approved the requirements for state boards for North Carolina in relation to the 2010 SO_2 NAAQS. *See* 80 FR 67645.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 27, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: April 14, 2016.

Heather McTeer Toney

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II—North Carolina

■ 2. Section 52.1770(e) is amended by adding a new entry "110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour SO_2 NAAQS" at the end of the table to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(e) * * *

EPA-Approved North Carolina Non-Regulatory Provisions

Provision	State effective date	EPA approval date	Federal Register citation	Explanation
*	*	*	*	* * *
110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour SO_2 NAAQS.	3/18/2014	4/26/2016	[Insert citation of publication in **Federal Register**].	With the exception of the PSD permitting requirements for major sources of sections 110(a)(2)(C) and (J), the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2, 3, and 4), and the state board requirements of section 110(E)(ii).

[FR Doc. 2016–09587 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1535 and 1552

[EPA–HQ–OARM–2016–0046; FRL 9941–86–OARM]

Environmental Protection Agency Acquisition Regulation; Institutional Oversight of Life Sciences Dual Use Research of Concern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is issuing a direct final rule to amend the EPA Acquisition Regulation (EPAAR) to include a new solicitation provision and contract clause to implement the United States Government Policy for Institutional Oversight of Life Sciences Dual Use Research of Concern (iDURC Policy). This direct final rule requires certain domestic institutions that receive contract funding from EPA to conduct or sponsor life sciences research and institutions outside of the United States that receive contract funding from EPA to conduct or sponsor research with the agents or toxins listed in the iDURC Policy, to review and communicate their research responsibly in accordance with the iDURC Policy.

DATES: This rule is effective on June 27, 2016 without further notice, unless EPA receives adverse comment by May 26, 2016. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OARM–2016–0046; FRL 9941–86–OARM at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Holly Hubbell, Policy, Training, and Oversight Division (3802R), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–564–1091; email address: *Hubbell.holly@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Direct Final Rule

EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment as this final rule amends the EPAAR to add a new solicitation provision and contract clause for iDURC Policy compliance. The iDURC policy was already published in the **Federal Register** for comment on September 25, 2014. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. Any parties interested in commenting must do so at this time.

II. Applicability

The EPA is promulgating a solicitation provision and contract clause to implement the iDURC Policy. The solicitation provision and contract clause notify institutions of the need to comply, and to ensure that institutions subject to the iDURC Policy represent that they shall comply with the iDURC Policy prior to or upon contract award. Institutions within the United States that receive funding from EPA to conduct or sponsor life sciences research are subject to the iDURC Policy if they conduct or sponsor research involving any of the agents or toxins listed in the iDURC Policy, regardless of the funding source. Institutions outside of the United States are subject to the iDURC Policy if they receive funding from EPA to conduct or sponsor research with any agents or toxins listed in the iDURC Policy. Institutions that are subject to the iDURC Policy have a number of responsibilities—at a minimum, they are advised to train laboratory personnel involved in such projects and maintain records of that training, establish an institutional review process to assess the research for its potential to meet the definition of *dual use research of concern,* and if it meets the definition, ensure the research is conducted and communicated responsibly.

III. Submitting Comments

A. Do not submit CBI to EPA through the Web site *http://www.regulations.gov* or by email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI, and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

B. Tips for Preparing Your Comments. When submitting comments, see the commenting tips at: *http://www2.epa.gov/dockets/commenting-epa-dockets* and remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) Part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

C. Make sure to submit your comments by the comment period deadline identified.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a "significant regulatory action" under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

The information collection activities in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2530.01. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The iDURC Policy instructs institutions subject to the Policy train individuals within their institution that are conducting research involving any of the agents or toxins identified in the Policy. Additionally, institutions are to maintain records of that training. EPA is submitting an information collection request for these recordkeeping requirements. EPA may collect the training records to ensure EPA is in compliance with the Policy, and that institutions receiving EPA funding are appropriately complying as well. EPA does not expect any issues of confidentiality to be relevant to this information collection.

Respondents/affected entities: Private Industry; Federal Government (in the form of government-owned/contractor-operated laboratories).

Respondent's obligation to respond: Mandatory (48 CFR Chapter 15, Part 52 and Part 35).

Estimated number of respondents: 12 to 24.

Frequency of response: Only once, or as necessary.

Total estimated burden: 36 to 64 hours per year.

Total estimated cost: $1,440 to $4,320.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et. seq.

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule pertains to contracts, which the APA expressly exempts from notice and comment rulemaking requirements under 5 U.S.C. 553(a)(2).

D. Unfunded Mandates Reform Act

This action does not contain any unfunded mandates as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. No substantial compliance costs are expected. There will be no impact on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28335 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act of 1995 (NTTAA)

This action does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment in the general public.

K. Congressional Review Act

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

48 CFR Part 1535

Environmental protection, Dual use research, Institutional oversight, Life sciences, Research and development.

48 CFR Part 1552

Environmental protection, Dual use research, Institutional oversight, Life sciences, Research and development.

Dated: April 19, 2016.

John R. Bashista,

Director, Office of Acquisition Management.

For the reasons stated in the preamble, 48 CFR parts 1535 and 1552 are amended as set forth below:

PART 1535—RESEARCH AND DEVELOMENT CONTRACTING

■ 1. The authority citation for part 1535 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

■ 2. Amend section 1535.007 by adding paragraph (c) to read as follows:

1535.007 Solicitations.

* * * * *

(c) Contracting officers shall insert 48 CFR 1552.235–81—"Notice of Institutional Oversight of Life Sciences Dual Use Research of Concern-Representation" when notified in the Advance Procurement Plan (APP) or by an EPA funding/requesting office, in accordance with the Institutional Oversight of Life Sciences Dual Use Research of Concern (iDURC) EPA Order 1000.19—"Policy and Procedures for Managing Dual Use Research of Concern," in solicitations that will result in a contract under which EPA funding will be used by the recipient to conduct or sponsor "life sciences research".

■ 3. Amend section 1535.007–70 by adding paragraph (h) to read as follows:

1535.007–70 Contract clauses.

* * * * *

(h) Contracting officers shall insert 48 CFR 1552.235–82—"Institutional

Oversight of Life Sciences Dual Use Research of Concern" into all solicitations containing 48 CFR 1552.235–81 and in existing contracts that are bilaterally modified at the request of an EPA funding/requesting office in accordance with EPA Order 1000.19.

PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. The authority citation for part 1552 continues to read as follows:

Authority: 5 U.S.C. 301 as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b.

■ 5. Add section 1552.235–81 to read as follows:

1552.235–81 Institutional oversight of life Sciences dual use research of concern—representation.

As prescribed in 1535.007(c), insert the following solicitation provision:

Institutional Oversight of Life Sciences Dual Use Research of Concern—Representation (JUNE 2016)

(a) *Definitions.* As used in this provision—

Institution means any government agency (Federal, State, tribal, or local), academic institution, corporation, company, partnership, society, association, firm, sole proprietorship, or other legal entity conducting research.

Life Sciences research means a systematic investigation designed to develop or contribute to generalizable knowledge involving living organisms (*e.g.,* microbes, human beings, animals, and plants) and their products, including all disciplines and methodologies of biology such as aerobiology, agricultural science, plant science, animal science, bioinformatics, genomics, proteomics, microbiology, synthetic biology, virology, molecular biology, environmental science, public health, modeling, engineering of living systems, and all applications of the biological sciences. The term is meant to encompass the diverse approaches to understanding life at the level of ecosystems, populations, organisms, organs, tissues, cells, and molecules. Life sciences research does not include routine product testing, quality control, mapping, collection of general-purpose statistics, routine monitoring and evaluation of an operational program, observational studies, and the training of scientific and technical personnel.

(b) *Representation.* By submission of its offer or quotation, the Offeror represents that if it is:

(1) An institution within the United States that conducts or sponsors life sciences research that involves one or more of the agents or toxins listed in section 6.2.1 of the "United States Government Policy for Institutional Oversight of Life Sciences Dual Use Research of Concern" (*iDURC Policy*), even if the research is not supported by United States Government funds; or

(2) An institution outside of the United States that receives funds to conduct or sponsor research that involves one or more of the agents or toxins listed in section 6.2.1 of the *iDURC Policy;* then the Offeror will comply with the *iDURC Policy.*

(c) *Resources.* Information about dual use research in the life sciences, as well as specific details on the *iDURC Policy* can be found on the U.S. Department of Health and Human Services *Dual Use Research of Concern* page: *http://www.phe.gov/s3/dualuse/Pages/default.aspx.*

(End of Provision)

■ 6. Add 1552.235–82 to read as follows:

1552.235–82 Institutional oversight of life sciences dual use research of concern.

As prescribed in 1535.007–70(h), insert the following contract clause:

Institutional Oversight Of Life Sciences Dual Use Research Of Concern (JUNE 2016)

(a) *Definitions.* As used in this clause—

Institution means any government agency (Federal, State, tribal, or local), academic institution, corporation, company, partnership, society, association, firm, sole proprietorship, or other legal entity conducting research.

Life Sciences research means a systematic investigation designed to develop or contribute to generalizable knowledge involving living organisms (*e.g.,* microbes, human beings, animals, and plants) and their products, including all disciplines and methodologies of biology such as aerobiology, agricultural science, plant science, animal science, bioinformatics, genomics, proteomics, microbiology, synthetic biology, virology, molecular biology, environmental science, public health, modeling, engineering of living systems, and all applications of the biological sciences. The term is meant to encompass the diverse approaches to understanding life at the level of ecosystems, populations, organisms, organs, tissues, cells, and molecules. Life sciences research does not include routine product testing, quality control, mapping, collection of general-purpose statistics, routine monitoring and evaluation of an operational program, observational studies, and the training of scientific and technical personnel.

(b) *Compliance.* The Contractor agrees that it shall comply with the "United States Government Policy for Institutional Oversight of Life Sciences Dual Use Research of Concern" (*iDURC Policy*) during the period of performance of this contract, including all option periods or other extensions, if the Contractor:

(1) Is an institution within the United States that conducts or sponsors, or begins to conduct or sponsor life sciences research that involves one or more of the agents or toxins listed in Section 6.2.1 of the *iDURC Policy,* even if the research is not supported by United States Government funds; or

(2) Is an institution outside the United States that receives funds through this contract to conduct or sponsor research that involves one or more of the agents or toxins listed in Section 6.2.1 of the *iDURC Policy.*

(c) *Resources.* Information about dual use research in the life sciences as well as specific details on the *iDURC Policy* can be found on the U.S. Department of Health and Human Services *Dual Use Research of Concern* page: *http://www.phe.gov/s3/dualuse/Pages/default.aspx.*

(End of clause)

[FR Doc. 2016–09601 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1815, 1842, and 1852

NASA Federal Acquisition Regulation Supplement

AGENCY: National Aeronautics and Space Administration.

ACTION: Technical amendments.

SUMMARY: NASA is making technical amendments to the NASA FAR Supplement (NFS) to provide needed editorial changes.

DATES: *Effective:* April 26, 2016.

FOR FURTHER INFORMATION CONTACT: Manuel Quinones, NASA, Office of Procurement, Contract and Grant Policy Division, via email at *manuel.quinones@nasa.gov,* or telephone (202) 358–2143.

SUPPLEMENTARY INFORMATION:

I. Background

As part NASA's retrospective review of existing regulations, NASA is conducting periodic reviews of NASA FAR Supplement (NFS) to ensure the accuracy of information and guidance disseminated to the acquisition community This rule corrects typographical errors as well as inadvertent omissions from past rulemaking actions. A summary of changes follows:

- Section 1815.408–70(c) is revised to correct a typographical error.
- Subpart 1842.70 is revised to reinsert sections 1842.7002 and 1842.7003 inadvertently removed by amendatory instruction 2 of final rule 80 FR 52644 issued on September 1, 2015.
- Sections 1852.215–79, 1852.217–72, 1852.223–73 (ALTERNATE I), 1852.223–75, 1852.227–88, 1852.228–71, 1852.239–70, 1852.245–73, 1852.245–82, 1852.245–83, 1852.246–73 are revised to correct their prescription references.

List of Subjects in 48 CFR Parts 1815, 1842, and 1852

Government procurement.

Manuel Quinones,
NASA FAR Supplement Manager.

Accordingly, 48 CFR parts 1815, 1842, and 1852 are amended as follows:

■ 1. The authority citation for parts 1815, 1842, and 1852 continues to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

PART 1815—CONTRACTING BY NEGOTIATION

1815.408–70 [Amended]

■ 2. Amend section 1815.408–70, in paragraph (c) by removing "1815.215–85" and adding "1852.215–85" in its place.

PART 1842—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 3. Add sections 1842–7002 and 1842–7003 to subpart 1842.70 to read as follows:

1842.7002 Travel outside of the United States.

The contracting officer shall insert the clause at 1852.242–71, Travel Outside of the United States, in cost-reimbursement solicitations and contracts where a contractor may travel outside of the United States and it is appropriate to require Government approval of the travel.

1842.7003 Emergency medical services and evacuation.

The contracting officer must insert the clause at 1852.242–78, Emergency Medical Services and Evacuation, in all solicitations and contracts when employees of the contractor are required to travel outside the United States or to remote locations in the United States.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.215–79 [Amended]

■ 4. Amend the introductory text of section 1852.215–79 by removing "1815.407–70(b)" and adding "1815.408–70(b)" in its place.

1852.217–72 [Amended]

■ 5. Amend the introductory text of section 1852.217–72 by removing "1817.7302(b)" and adding "1817.7002(b)" in its place.

1852.223–73 [Amended]

■ 6. Amend section 1852.223–73, in ALTERNATE I, by removing "1823.7001(c)(1)" and adding "1823.7001(c)" in its place.

1852.223–75 [Amended]

■ 7. Amend the introductory text of section 1852.223–75 by removing "1823.7001(d)" and adding "1823.7001(e)(1)" and in the introductory text of ALTERNATE I removing "1823.7001(d)(2)" and adding "1823.7001(e)(2)"in their place.

1852.227–88 [Amended]

■ 8. Amend the introductory text of section 1852.227–88 by removing "1827.409(m)" and adding "1827.409(m)(1)" in its place.

1852.228–71 [Amended]

■ 9. Amend the introductory text of section 1852.228–71 by removing "1828.311–2" and adding "1828.311–270(a)" in its place.

1852.239–70 [Amended]

■ 10. Amend the introductory text of section 1852.239–70 by removing "1839.106–70(a)(1)" and adding "1839.107–70(a)(1)" and in the introductory text of ALTERNATE I removing "1839.7008(b)" and adding "1839.107–70(a)(2)"in their place.

1852.245–73 [Amended]

■ 11. Amend the introductory text of section 1852.245–73 by removing "1845.106–70(d)" and adding "1845.107–70(d)" in its place.

1852.245–82 [Amended]

■ 12. Amend the introductory text of section 1852.245–82 by removing "1845.106–70(m)" and adding "1845.107–70(m)" in its place.

1852.245–83 [Amended]

■ 13. Amend the introductory text of section 1852.245–83 by removing "1845.106–70(n)" and adding "1845.107–70(n)" in its place.

1852.246–73 [Amended]

14. Amend the introductory text of section 1852.246–73 by removing "1845.370(b)" and adding "1846.370" in its place.

[FR Doc. 2016–09588 Filed 4–25–16; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 150924885–6324–02]

RIN 0648–BF38

International Fisheries; Pacific Tuna Fisheries; Fishing Restrictions for the Area of Overlap Between the Convention Areas of the Inter-American Tropical Tuna Commission and the Western and Central Pacific Fisheries Commission

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is issuing regulations under the Tuna Conventions Act to implement Recommendation C–12–11 of the Inter-American Tropical Tuna Commission (IATTC) by revising the management regime for the area of overlapping jurisdiction between the IATTC and the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC). These regulations provide that the management measures of the IATTC no longer apply in the area of overlapping jurisdiction, with the exception of regulations governing the IATTC Regional Vessel Register. This rule is necessary for the United States to satisfy its obligations as a member of the IATTC.

DATES: This rule is effective May 26, 2016.

ADDRESSES: Copies of the Regulatory Impact Review and other supporting documents prepared for this final rule are available via the Federal eRulemaking Portal: *http://www.regulations.gov,* docket NOAA–NMFS–2015–0158 or by contacting the Regional Administrator, William W. Stelle, Jr., NMFS West Coast Region, 7600 Sand Point Way NE., Bldg 1, Seattle, WA 98115–0070, or *RegionalAdministrator.WCRHMS@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Rachael Wadsworth, NMFS, West Coast Region, 562–980–4036.

SUPPLEMENTARY INFORMATION:

Background

On December 28, 2015, NMFS published a proposed rule in the **Federal Register** (80 FR 80741) to implement IATTC Recommendation C–12–11 (*IATTC—WCPFC Overlap Area*); the IATTC adopted this Recommendation at its 84th meeting in October 2012. The convention areas for the IATTC and WCPFC overlap in the Pacific Ocean waters within a rectangular area bounded by 50° S. latitude, 150° W. longitude, 130° W. longitude, and 4° S. latitude ("Area of Overlap"). Recommendation C–12–11 calls for each flag State member, if it is a member of both organizations, to decide, for a period of not less than 3 years, whether IATTC or WCPFC conservation and management measures will apply to vessels listed in the registers of both organizations while fishing in the Area of Overlap. The proposed rule contained additional background information, including information on the IATTC, the international obligations of the United States as an IATTC member, and the need for regulations. The 30-day public comment period for the proposed rule closed on January 27, 2016.

Prior to this rule, both the U.S. regulations that implement the decisions of the IATTC (see 50 CFR part 300, subpart C) and the regulations that implement the decisions of the WCPFC (see 50 CFR part 300, subpart O) applied in the Area of Overlap. This rule implements Recommendation C–12–11 and establishes that, in the Area of Overlap, the regulations that implement the decisions of the IATTC at 50 CFR part 300, subpart C, do not apply; however, regulations pertaining to the IATTC Regional Vessel Register at 50 CFR 300.22(b) still apply.

The decisions of the WCPFC as implemented by NMFS regulations at 50 CFR part 300, subpart O would continue to apply in the Area of Overlap. Under this rule, the definition of the IATTC Convention Area is revised into two parts: (1) Include the Area of Overlap in the definition of the IATTC Convention Area for the purpose of IATTC Regional Vessel Register regulations at 50 CFR 300.22(b), and (2) exclude the Area of Overlap in the definition of the Convention Area for the purpose of regulations at 50 CFR part 300, subpart C.

The final rule is implemented under the authority of the Tuna Conventions Act (16 U.S.C. 951 *et seq.*), as amended on November 5, 2015, by title II of Public Law 114–81. The recent amendments provide that the Secretary of Commerce, in consultation with the Secretary of State and, with respect to enforcement measures, the Secretary of the Department of Homeland Security, may promulgate such regulations as may be necessary to carry out U.S. international obligations under the Convention, including recommendations and decisions adopted by the IATTC. The Secretary's authority to promulgate such regulations has been delegated to NMFS.

NMFS notes that on January 29, 2016, after publication of the proposed rule, the United States deposited a formal notice of intent to withdraw from the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America (aka the South Pacific Tuna Treaty or SPTT). The SPTT entered into force in 1988, and provides for the establishment of terms and conditions for the U.S. tuna purse seine fleet to fish in certain areas of the Western and Central Pacific Ocean (WCPO), including waters under the jurisdiction of the Pacific Island Parties to the SPTT. A small part of the SPTT Convention Area is in the Overlap Zone; fishing vessels of the United States operating in the SPTT Convention Area are subject to 50 CFR part 300, subpart D. The SPTT will terminate 1 year from the receipt of the deposit of the formal notice of withdrawal unless the United States rescinds the notice. Due in part to uncertainty regarding fishing access pursuant to the SPTT in 2016, 15 large purse seine vessels (>362.8 metric ton well volume) that typically fish in the WCPO requested to be added to the IATTC Regional Vessel Register for fishing access in the EPO. Consequently, the combined well volume capacity of all U.S. purse seine vessels is 29,390 m^3, which is close to the 31,775 m^3 limit for the United States.

Public Comments and Responses

NMFS received one comment letter during the 30-day public comment period that closed on January 27, 2016. At the time the comment letter was received, no SPTT licenses had been issued to U.S. vessels for 2016. On February 29, 2016, the Pacific Island Parties to the SPTT and the United States finalized revised terms of access to waters under the jurisdiction of the Pacific Island parties for 2016. The comment letter included references to the situation with the SPTT, as described above, and the distribution of fishing effort of U.S. purse seine vessels between the WCPO and EPO. The concerns expressed in the comment letter were separated into three comments, which NMFS responds to below.

Comment 1: Recently, the fishing effort of much of the American Samoan fleet has shifted from the WCPFC to the IATTC Convention Area; therefore, the commenter opposes this proposed rule to apply WCPFC regulations to the Area of Overlap instead of IATTC regulations. Due to the lack of SPTT licenses, the U.S. purse seine fleet has been prohibited from fishing in the SPTT Licensing Area and 15 U.S. flagged purse seiners are utilizing their historical rights to fish in the IATTC Convention Area. Because these vessels would now be following IATTC regulations, the statement made to support the proposed rule is no longer accurate: ". . . the U.S. fisheries impacted by this rulemaking occur mostly in the WCPFC Area."

Response: As described in the preamble, NMFS recognizes that this has been an unusual year for the U.S purse seine fleet fishing under the SPTT and that there has been uncertainty in the structure and future of the SPTT. At the time the proposed rule published, no SPTT licenses had been issued to U.S. vessels for 2016, and large purse seine vessels that typically fish in the WCPO requested to be added to the IATTC Regional Vessel Register for fishing access in the EPO. However, on February 29, 2016, the Pacific Island parties and the United States finalized revised terms of access for 2016. While the future of the SPTT remains uncertain, U.S. purse seine vessels have been issued SPTT licenses for 2016 as of the date of publication of this final rule.

Due to the uncertainty in the future of the SPTT and the terms of fishing access to waters under the jurisdiction of Pacific Island parties for U.S. purse seine vessels in the future, NMFS intends to apply these regulations for 3 years, and may re-evaluate the location of fishing effort between the EPO and WCPO after that time to consider any substantial changes in the fisheries. In the event that the SPTT does terminate, owners of U.S. purse seine vessels may be able to obtain authorization from Pacific Island nations to fish in waters under their jurisdiction through alternative arrangements.

Although Comment 1 references that the fishing effort of 15 purse seine vessels recently changed from the WCPO to the EPO, NMFS evaluated the impacts of the rule by reviewing all U.S. fishing activity in the Area of Overlap, including other gear types outside of the purse seine fleet. As described in the Classification section of the proposed rule, U.S. vessels do not fish in the Area of Overlap often. The two gear types that have fished in the Area of Overlap since 2008 are troll vessels that target South Pacific albacore and purse seine vessels that target tropical tuna. The majority of the South Pacific albacore troll fishery occurs in the WCPFC Convention Area outside the Area of Overlap (*i.e.,* west of 150° W.), while some fishing has occurred in the Area of Overlap. As described above, the well volume capacity on the IATTC Regional Vessel Register for 2016 is nearly at the U.S. limit with 15 large purse seine vessels. There are currently 27 large purse seine vessels that are authorized by NMFS to be used for fishing on the high seas in the WCPFC Convention Area that are not on the IATTC Regional Vessel Register and these vessels will not be able to fish full time in the EPO for 2016. In addition, although U.S. longline vessels have not fished in the Area of Overlap over the past 10 years, this fleet also primarily fishes in the WCPO. This rule applies to vessels of all gear types.

Comment 2: IATTC decisions governing the IATTC Regional Vessel Registry and Agreement on the International Dolphin Conservation Program (AIDCP) should not apply in the Area of Overlap, including vessel assessment fees, observer coverage, and authorization for the active status of purse seine vessels. NMFS is proposing that vessels fishing in the Overlap Area pay IATTC fees, follow some IATTC rules, but also abide by all WCPFC rules.

Response: The decisions of the AIDCP must continue to apply regardless of the way IATTC Recommendation C–12–11 is implemented through this rulemaking. As explained in the preamble of the proposed rule, the IATTC Regional Vessel Register regulations must continue to apply to U.S. vessels in the Area of Overlap so that the United States can continue to fulfill its obligations under the AIDCP in that area. The decisions of the IATTC cannot undo the decisions of the AIDCP without consensus from the AIDCP because these organizations are established under separate treaties. The IATTC Regional Vessel Register is used as a mechanism to implement AIDCP provisions, including vessel assessment fees, observer coverage, and authorization for the active status of purse seine vessels. Therefore, the IATTC Regional Vessel Register requirements, including the requirement to pay vessel assessment fees required under the AIDCP will continue to apply in the Area of Overlap.

Comment 3: This proposed rule runs counter to its stated intent to simplify regulations in a way consistent with one Commission or the other, nor is it reflective of current status of the fishery. It applies a historical rather than forward looking rationale and, therefore, fails to account for changes clearly occurring and likely to occur in future fishing patterns. U.S. vessels fishing in the EPO should follow IATTC regulations exclusively in the Area of Overlap and not those of the WCPFC.

Response: NMFS disagrees that this rule would not simplify the regulations to be followed in the Area of Overlap. As described in the Classification section of the proposed rule, the rule is expected to simplify regulations because, aside from the IATTC Regional Vessel Register requirements, affected vessels will only be required to follow the measures of one organization (*i.e.,* the WCPFC) rather than both organizations (*i.e.,* the WCPFC and the IATTC) in the Area of Overlap. For example, in 2015 purse seine vessel owners and operators needed to comply with closures applicable in the Area of Overlap for both the IATTC and WCPFC. The IATTC implementing regulations at § 300.25(f) require vessel owners and operators to select one of two options for 62-day closures in the IATTC Convention Area. In addition, purse seine vessel owners and operators needed to comply with WCPFC regulations at § 300.223(a) that established a limit of 1,828 purse seine fishing days in the WCPFC Convention Area in the areas of high seas and U.S. EEZ between 20° N. latitude and 20° S. latitude (an area known as the ELAPS), which includes some of the Area of Overlap. The limit was reached and the applicable area was closed to purse seine fishing from June 15, 2015, through December 31, 2015 (80 FR 32313). Under this rule, vessel owners and operators would not need to comply with both sets of purse seine closures in the Area of Overlap, and would only need to comply with the WCPFC limit on fishing days in the ELAPS.

Comment 3 also states that the rule ". . . applies a historical rather than forward looking rationale and therefore fails to account for changes clearly occurring and likely to occur in future fishing patterns. . . ." As described in the response to Comment 1, NMFS cannot speculate on the outcome of the SPTT negotiations or future fishing grounds of the purse seine fleet, and can only evaluate the information that is currently available. Furthermore, NMFS cannot predict other changes that may occur in future fishing patterns outside of the SPTT. For example, changes in regional fisheries management organization measures in the future could lead to more or less restrictive measures for fleets that would require more or less burden in the Area of Overlap. Given that the majority of the U.S. fleet that has utilized the Area of Overlap in the past eight years has fished predominantly in the WCPO, NMFS still considers the decisions of the WCPFC to be the more uniform set of regulations for the U.S. fleet to follow when in the Area of Overlap. Moreover, NMFS may re-evaluate the location of fishing effort between the EPO and WCPO three years from now to consider revising this rule in light of any substantial changes in the fisheries.

Changes From the Proposed Rule

There are no changes in the regulatory text between the proposed and final rule.

Classification

The NMFS Assistant Administrator has determined that this rule is consistent with the Tuna Conventions Act and other applicable laws.

This rule has been determined to be not significant for purposes of Executive Order 12866.

Additionally, although there are no new collection-of-information requirements associated with this action that are subject to the Paperwork Reduction Act, existing collection-of-information requirements still apply under the following Control Numbers: (1) 0648–0596, Vessel Monitoring System (VMS) Requirements under the WCPFC; (2) 0648–0595, WCPFC Vessel Information Family of Forms; (3) 0648–0649, Transshipment Requirements under the WPCFC; and (4) 0648–0204, West Coast Region Family of Forms. Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding the certification. Therefore, the certification published with the proposed rule that states this rule is not expected to have a significant economic impact on a substantial number of small entities is still valid. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 300

Fish, Fisheries, Fishing, Fishing vessels, International organizations, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: April 21, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

■ 1. The authority citation for part 300, subpart C, continues to read as follows:

Authority: 16 U.S.C. 951 *et seq.*

■ 2. In § 300.21, revise the definition for "Convention Area" to read as follows:

§ 300.21 Definitions.

* * * * *

Convention Area or *IATTC Convention Area* means:

(1) For the purpose of § 300.22(b), all waters of the Pacific Ocean within the area bounded by the west coast of the Americas and by 50° N. latitude from the coast of North America to its intersection with 150° W. longitude, then 150° W. longitude to its intersection with 50° S. latitude, and then 50° S. latitude to its intersection with the coast of South America; and

(2) For the purpose of all other sections and paragraphs of this subpart, all waters of the Pacific Ocean within the area bounded by the west coast of the Americas and by 50° N. latitude from the coast of North America to its intersection with 150° W. longitude, then 150° W. longitude to its intersection with 4° S. latitude, then 4° S. to its intersection with 130° W. longitude, then 130° W. longitude to its intersection with 50° S. latitude, and then 50° S. latitude to its intersection with the coast of South America.

* * * * *

[FR Doc. 2016–09679 Filed 4–25–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151110999–6315–02]

RIN 0648–BF53

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Specifications and Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is implementing 2016–2018 specifications for Atlantic mackerel and the river herring and shad catch cap for Atlantic mackerel. This action also adjusts the butterfish mesh requirement, clarifies the use of net strengtheners in the butterfish fishery, and suspends indefinitely the pre-trip notification system requirement in the longfin squid fishery. These specifications set catch levels to prevent overfishing and allocate catch to commercial and recreational fisheries. Additionally, the adjustments to gear and reporting requirements in the squid and butterfish fisheries will make operation of the fisheries more efficient and less burdensome. These specifications and management measures are consistent with the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan and the recommendations of the Mid-Atlantic Fishery Management Council.

DATES: Effective May 26, 2016, except for the amendment to § 648.11(n)(1), which is effective April 26, 2016.

ADDRESSES: Copies of the specifications document, including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available from: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901, telephone (302) 674–2331. The framework document is also accessible via the Internet at: *http://www.greateratlantic.fisheries.noaa.gov.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS, Greater Atlantic Regional Fisheries Office by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Policy Analyst, (978) 281–9224.

SUPPLEMENTARY INFORMATION:

Background

Specifications, as referred to in this rule, are the combined suite of commercial and recreational catch levels established for one or more fishing years. The specifications process also allows for the modification of a select number of management measures, such as closure thresholds, gear restrictions, and possession limits. The Council's process for establishing specifications relies on provisions within the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) and its implementing regulations, as well as requirements established by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Specifically, section 302(g)(1)(B) of the Magnuson-Stevens Act states that the Scientific and Statistical Committee (SSC) for each Regional Fishery Management Council shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch (ABC), preventing overfishing, maximum sustainable yield, and achieving rebuilding targets. The ABC is a level of catch that accounts for the scientific uncertainty in the estimate of the stock's defined overfishing level (OFL).

The Council's SSC met on May 13 and 14, 2015, to recommend an ABC for the 2016–2018 Atlantic mackerel specifications. On January 22, 2016, NMFS published a proposed rule for the 2016–2018 Atlantic mackerel, squid, and butterfish fishery specifications and management measures (81 FR 3768); the public comment period for the proposed rule ended February 22, 2016. NMFS previously set specifications for butterfish, longfin squid, and *Illex* squid for 3 years in 2015 (2015–2017) (80 FR 14870, March 20, 2015) and, therefore, new specifications for these species are not included in this final rule.

The Atlantic Mackerel, Squid, and Butterfish FMP regulations require the specification of annual catch limits (ACL) and accountability measures (AM) for Atlantic mackerel and butterfish. (Both squid species are exempt from the ACL/AM requirements because they have life cycles of less than 1 year.) In addition, the regulations require the specification of domestic annual harvest (DAH), domestic annual processing (DAP), and total allowable level of foreign fishing (TALFF), along with joint venture processing (JVP) for commercial and recreational annual catch totals (ACT) for mackerel, the butterfish mortality cap in the longfin squid fishery, and initial optimum yield (IOY) for both squid species. Details concerning the Council's development of the measures were presented in the preamble of the proposed rule and are not repeated here.

In addition to the specifications, this action adjusts the butterfish mesh requirement, clarifies the use of net strengtheners in the butterfish fishery, and suspends indefinitely the pre-trip notification system (PTNS) requirements in the longfin squid fishery.

Final 2016–2018 Specifications for Atlantic Mackerel

TABLE 1—2016–2018 SPECIFICATIONS IN METRIC TONS (MT) FOR ATLANTIC MACKEREL

Overfishing limit (OFL)	Unknown
ABC	19,898
ACL	11,009
Commercial ACT	9,294
Recreational ACT/Recreational Harvest Limit (RHL)	614
DAH/DAP	9,177
JVP	0
TALFF	0

The proposed rule for this action included the details of how the Council derived its recommended Atlantic mackerel specifications, and NMFS is not including these details in this final rule. This action establishes the Atlantic mackerel stock-wide ABC of 19,898 mt and the U.S. ABC of 11,009 mt, based on the formula U.S. ABC = Stock-wide ABC–C, where C is the estimated catch of Atlantic mackerel in Canadian waters (8,889 mt) for the upcoming fishing year. The ACL is set equal to the U.S. ABC at 11,009 mt, the commercial ACT is set at 9,294 mt, the DAH and DAP are both set at 9,177 mt, and the recreational ACT is set at 614 mt.

The recreational fishery allocation for Atlantic mackerel is 683 mt (6.2 percent of the U.S ABC). The recreational ACT of 614 mt (90 percent of 683 mt) accounts for uncertainty in recreational catch and discard estimates. The recreational ACT is equal to the Recreational Harvest Limit (RHL), which is the effective cap on recreational catch.

The commercial fishery allocation for Atlantic mackerel is 10,327 mt (93.8 percent of the U.S. ABC, the portion of the ACL that was not allocated to the recreational fishery). The commercial ACT of 9,294 mt (90 percent of 10,327 mt) compensates for management uncertainty in estimated Canadian landings, uncertainty in discard estimates, and possible misreporting of Atlantic mackerel catch. The commercial ACT is further reduced by a discard rate of 1.26 percent to arrive at the DAH of 9,177 mt. The DAH is the effective cap on commercial catch.

Additionally, this action maintains JVP at zero (the most recent allocation was 5,000 mt of JVP in 2004). In the past, JVP was set greater than zero because U.S. processors lacked the ability to process the total amount of Atlantic mackerel that U.S. harvesters could land. However, for the past 10 years, the Council has recommended zero JVP because U.S. shoreside processing capacity for Atlantic mackerel has expanded. The Council concluded that processing capacity was no longer a limiting factor relative to domestic production of Atlantic mackerel.

The Magnuson-Stevens Act provides that the specification of TALFF, if any, shall be the portion of the optimum yield (OY) of a fishery that will not be harvested by U.S. vessels. TALFF would allow foreign vessels to harvest U.S fish and sell their product on the world market, in direct competition with U.S. industry efforts to expand exports. While a surplus existed between ABC and the Atlantic mackerel fleet's harvesting capacity for many years, that surplus has disappeared due to downward adjustment of the specifications in recent years. Based on analysis of the global mackerel market and possible increases in U.S. production levels, the Council concluded that specifying a DAH/DAP that would result in zero TALFF would yield positive social and economic benefits to both U.S. harvesters and processors, and to the Nation. For these reasons, consistent with the Council's recommendation, the DAH is set at a level that can be fully harvested by the domestic fleet, thereby precluding the specification of a TALFF, in order to support the U.S. mackerel industry. NMFS concurs that it is reasonable to assume that in 2016 through 2018 the commercial fishery has the ability to harvest 9,177 mt of Atlantic mackerel.

2016–2018 Final River Herring and Shad Catch Cap in the Atlantic Mackerel Fishery

In order to limit river herring and shad catch, Amendment 14 to the FMP (February 24, 2014; 79 FR 10029) allows the Council to set a river herring and shad cap through annual specifications. For 2015, we implemented a cap that was set at 89 mt initially, but if Atlantic mackerel landings surpassed 10,000 mt before closure of the directed fishery, then the cap would increase to 155 mt. The 89-mt cap represents the median annual river herring and shad catch by all vessels landing over 20,000 lb (9.08 mt) of Atlantic mackerel per trip from 2005–2012. These were the years when the fishery caught about 13,000 mt of Atlantic mackerel. The 155-mt cap was based on the median river herring and shad catch by all vessels landing over 20,000 lb (9.08 mt) of Atlantic mackerel per trip from 2005–2012, adjusted to the 2015 DAH (20,872 mt). This two-tier system was implemented to encourage the fishery to avoid river herring and shad regardless of the rate of Atlantic mackerel catches.

For 2016–2018, the cap is set at 82 mt. For 2016–2018, the Atlantic mackerel DAH is 9,177 mt, which is 8.23 percent less than the river herring and shad catch cap increase trigger set in 2015 (10,000 mt). The river herring and shad cap was reduced by the same proportion as the catch cap increase trigger, resulting in a cap of 82 mt (8.23 percent less than 89 mt). Once the Atlantic mackerel fishery catches 95 percent of the river herring and shad cap, we will close the directed Atlantic mackerel fishery and implement a 20,000-lb (9.08-mt) Atlantic mackerel incidental catch trip limit for the remainder of the year.

Butterfish Mesh Requirement Adjustment and Clarification

This action will increase the possession limit for vessels fishing with mesh smaller than 3 inches (7.62 cm) from 2,500 lb (1.13 mt) to 5,000 lb (2.27 mt). The 3-inch (7.62-cm) mesh requirement is designed to allow escapement of juvenile butterfish during directed butterfish fishing. Vessels holding a longfin squid and butterfish moratorium permit and fishing with nets that have a mesh size smaller than 3 inches (7.62 cm) will now be allowed to retain up to 5,000 lb (2.27 mt) of butterfish.

This action also amends the regulations to clearly state that 5-inch (12.7-cm) square or diamond, or greater, mesh net strengtheners may be used outside the 3-inch (7.62-cm) mesh to avoid breaking nets during large hauls.

Suspension of the Longfin Squid Pre-Trip Notification System Requirement

This action will indefinitely suspend the longfin squid PTNS requirement for vessels with longfin squid and butterfish moratorium permits that want to retain more than 2,500 lb (1.13 mt) of longfin squid. This requirement was implemented via Amendment 10 to the FMP (75 FR 11441; March 11, 2010) to improve the selection process of vessels being observed for purposes of monitoring the longfin squid fishery's butterfish cap. However, the new Standardized Bycatch Reporting Methodology (SBRM) requires observers to adhere to a detailed and rigorous selection procedure that takes into account a variety of criteria (for example region fished and gear used) to select vessels for observer coverage, and that conflicts with the use of the PTNS for assigning observers. This action will resolve the resulting logistical problems by relying on observer coverage through the new SBRM, and eliminating the PTNS requirement.

Comments and Responses

NMFS received five comments in response to the proposed rule for this action. Two were from industry groups, the Garden State Seafood Association (GSSA), a New Jersey fishing industry advocacy group, and Seafreeze, a Rhode Island fishing company and seafood dealer. One comment was from the Herring Alliance, an environmental group. Two comments were from individuals.

Comment 1: GSSA, Seafreeze, and two individuals commented in support of removing the longfin squid PTNS requirement. GSSA, Seafreeze, and one individual commented in support of the increased butterfish incidental possession limit to 5,000 lb (2.27 mt) using less than 3-inch (7.62-cm) mesh. GSSA and Seafreeze also commented in support of allowing 5-inch (12.7-cm) mesh net strengtheners to avoid breaking nets during large hauls.

Response: NMFS will be implementing these management measures as proposed.

Comment 2: GSSA commented in opposition to the river herring and shad catch cap of 82 mt while the Herring Alliance commented in support of the catch cap.

Response: There was no rationale provided for the opposition to the proposed river herring and shad catch cap of 82 mt. NMFS used the best scientific information available and is approving the river herring and shad catch cap that is consistent with the FMP and recommendations of the Council.

Comment 3: The Herring Alliance commented in support of the Atlantic mackerel DAH of 9,177 mt.

Response: NMFS used the best scientific information available and is approving the specifications that are consistent with the FMP and recommendations of the Council.

Comment 4: One individual suggested that the daily vessel monitoring system (VMS) reporting requirement for longfin squid vessels be removed or reduced. The Herring Alliance suggested that an amendment be initiated to develop a long-term control rule for Atlantic mackerel that will be consistent with the Council's policies for forage fish. The Herring Alliance also suggested that all four river herring and shad species be added to the Atlantic Mackerel, Squid, and Butterfish FMP as stocks in the fishery in October 2016.

Response: These issues are outside the scope of this action, but may be addressed by the Council in the future.

Changes From the Proposed Rule

This final rule contains a change that will clarify that only vessels intending to land more than 2,500 lb (1.13 mt) of longfin squid are required to declare into the fishery via VMS at 50 CFR§ 648.10. The fishery is already operating this way; this rule is simply clarifying the existing regulatory text.

This final rule also contains changes to the wording and format of the regulatory text of the proposed rule for the measures included in this action to reorganize paragraphs (3) through (6) in 50 CFR 648.23, and to make conforming and clarifying edits and format changes to 50 CFR 648.23. These changes are intended to clarify the purpose of these measures and promote compliance, and do not change the effect of the regulatory text as included in the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator (AA) has determined that this final rule is consistent with the Atlantic Mackerel, Squid, and Butterfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Council prepared an EA for the 2016–2018 specifications and management measures, and the AA concluded that there will be no significant impact on the human environment as a result of this rule. A copy of the EA is available upon request (see **ADDRESSES**).

This final rule is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

The AA finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay of effectiveness period for part of this rule (revising 50 CFR 648.11(n)(1) on pre-trip notification for observer coverage), to alleviate unnecessary burden to the public. This aspect of the final rule indefinitely suspends the requirement that longfin squid and butterfish moratorium permit-holders must use the PTNS before making trips that can land more than 2,500 lb of longfin squid. New observer selection protocols through the SBRM have made the PTNS unnecessary and potentially counterproductive. If a 30-day delay in effectiveness is not waived in order to make the suspension of the PTNS requirement effective as soon as possible, the public will be further burdened by this unnecessary requirement. For these reasons, the AA is waiving the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3).

This rule is being issued at the earliest possible date. Preparation of the proposed rule was dependent on the submission of the EA/IRFA in support of the specifications and management measures developed by the Council. NMFS received a complete document in December 2015. Documentation in support of the Council's recommended specifications and management measures are required for NMFS to provide the public with information from the environmental and economic analyses as required by the National Environmental Protection Act and the Regulatory Flexibility Act. The proposed rule was published on January 22, 2016, with a comment period ending on February 22, 2016.

This action contains collection-of-information requirements subject to the paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648–0679. This action indefinitely suspends the PTNS requirement for limited access longfin squid vessels. The removal of this information collection is intended to resolve logistical problems and conflicts with the SBRM observer selection protocols. The burden estimates for these new requirements apply to all limited access longfin squid vessels. Time and cost burdens that were previously approved through Amendment 10 and OMB Control Number 0648–0679, include an estimated total time burden of 256 hours, no additional cost to the public, and total cost to the government of $25,943. In a given fishing year, NMFS estimates that the removed reporting requirement included in this action will reduced time burden by 256 hours, negligibly reduce cost to the public, and reduce cost to the government by $25,943. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–7285.

Notwithstanding any other provisions of the law, no person is required to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. All currently approved NOAA collections of information may be viewed at: *http://www.cio.noaa.gov/services_programs/prasubs.html.*

Pursuant to section 604 of the Regulatory Flexibility Act, NMFS has prepared a Final Regulatory Flexibility Analysis (FRFA), summarized in the preamble of this final rule, in support of the management measures in this action. The FRFA describes the economic impact that this final rule will have on small entities, as well as the economic impacts that other, non-preferred alternatives could have on small entities.

The FRFA incorporates the economic impacts and analysis summaries from the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant issues raised by the public in response to the IRFA, and NMFS's responses to those comments. A copy of the RFA, RIR, and the EA are available upon request (see **ADDRESSES**).

A Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

None of the public comments raised issues related to the IRFA or the economic impact of the rule on affected entities.

Description and Estimate of Number of Small Entities to Which the Rule Will Apply

Based on permit data for 2014, 370 separate vessels hold Atlantic mackerel, squid, and butterfish limited access permits, 271 entities own those vessels, and, based on current Small Business Administration (SBA) definitions, 259 of these are small entities. Of the 259 small entities, 25 had no revenue in 2014 and those entities with no revenue are considered small entities for the purpose of this analysis. All of the entities that had revenue fell into the finfish or shellfish categories, and the SBA definitions for those categories that applied in 2014 state that small entities engaged in finfish fishing have combined annual receipts not exceeding $20.5 million, and small entities engaged in shellfish fishing have combined annual receipts not exceeding $5.5 million.

The only action in this rule that involved increased restrictions applies to Atlantic mackerel limited access permits so those numbers are listed separately (they are a subset of the above entities). Based on permit data for 2014, 139 separate vessels hold Atlantic mackerel limited access permits, 105 entities own those vessels, and based on current SBA definitions, 97 were small entities. Of the 97 small entities, 3 had no revenue in 2014, and those entities with no revenue were considered small entities for the purpose of this analysis. Of the entities with revenues, their average revenues in 2014 were $1,212,230. Sixty entities had primary revenues from finfish fishing and 34 had their primary revenues from shellfish fishing.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This final rule contains collection-of-information requirements subject to the PRA that have been approved by the OMB under Control Number 0648–0679.

Under this action, all limited access longfin squid vessels intending to land more than 2,500 lb (1.13 mt) of longfin squid will no longer be required to call PTNS to request an observer. This would remove the information collection requirement, reduce logistical issues for the Northeast Fishery Observer Program, and reduce burden for industry participants. The reduction in burden estimates for these new requirements apply to all limited access longfin squid vessels. In a given fishing year, NMFS estimates that removal of this reporting requirement will reduce time burden by 256 hours, negligibly reduce cost to the public, and reduce cost to the government by $25,943 from that which was previously approved under OMB Control Number 0648–0679.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impacts on Small Entities Consistent With the Stated Objectives of Applicable Statutes

The Atlantic mackerel commercial DAH (9,177 mt) represents a reduction from status quo (2015 DAH = 20,872 mt). Despite the reduction, the proposed DAH is above recent U.S. landings; mackerel landings for 2012–2014 averaged 5,136 mt. Thus, the reduction should not have more than a minimal impact on the affected small entities compared to recent operation of the fishery (2012–2015). Even though the 2016–2018 quota is lower than 2015, it will still allow more catch compared to the catch in any year from 2012–2015.

The river herring and shad catch cap in the Atlantic mackerel fishery has the potential to prevent the fishery from achieving its full mackerel quota if the river herring and shad encounter rates are high, but it is very unlikely that this fishery would close before exceeding the levels of landings experienced since 2010, when annual landings have been less than 11,000 mt. Based on the operation of the cap in 2014 and 2015 (the first years of the cap), as long as the fishery can maintain relatively low river herring and shad catch rates, the lower cap should not negatively impact fishery participants. However, a few large river herring and shad bycatch events could potentially shut down the Atlantic mackerel fishery early. At 2014 prices ($491/mt), the Atlantic mackerel quota (9,177 mt) could potentially generate about $4.5 million. While the performance of the cap in 2014–2015 suggests that the fishery can operate with very low river herring and shad catch rates, if river herring and shad catch rates happen to be relatively high, then most of the Atlantic mackerel catch (and associated revenues) could be forgone.

The butterfish mesh requirement adjustment would allow more butterfish to be retained with small mesh gear; therefore, there should be no negative impacts on the relevant entities.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: April 21, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 648.10, paragraph (o) is revised to read as follows:

§ 648.10 VMS and DAS requirements for vessel owners/operators.

* * * * *

(o) *Longfin squid/butterfish VMS notification requirement.* A vessel issued a longfin squid/butterfish moratorium permit intending to declare into the longfin squid fishery must notify NMFS by declaring a longfin squid trip prior to leaving port at the start of each trip in order to harvest, possess, or land more than 2,500 lb (1.13 mt) of longfin squid on that trip.

■ 3. In § 648.11, paragraph (n)(1) is revised to read as follows:

§ 648.11 At-sea sea sampler/observer coverage.

* * * * *

(n) *Atlantic mackerel, squid, and butterfish observer coverage*—(1) *Pre-trip notification.* (i) A vessel issued a limited access Atlantic mackerel permit, as specified at § 648.4(a)(5)(iii), must, for the purposes of observer deployment, have a representative provide notice to NMFS of the vessel name, vessel permit number, contact name for coordination of observer deployment, telephone number or email address for contact; and the date, time, port of departure, gear type, and approximate trip duration, at least 48 hr, but no more than 10 days, prior to beginning any fishing trip, unless it complies with the possession restrictions in paragraph (n)(1)(iii) of this section.

(ii) A vessel that has a representative provide notification to NMFS as described in paragraph (n)(1)(i) of this section may only embark on a mackerel trip without an observer if a vessel representative has been notified by NMFS that the vessel has received a waiver of the observer requirement for that trip. NMFS shall notify a vessel representative whether the vessel must carry an observer, or if a waiver has been granted, for the specific mackerel trip, within 24 hr of the vessel representative's notification of the prospective mackerel trip, as specified in paragraph (n)(1)(i) of this section. Any request to carry an observer may be waived by NMFS. A vessel that fishes with an observer waiver confirmation number that does not match the mackerel trip plan that was called in to NMFS is prohibited from fishing for, possessing, harvesting, or landing mackerel except as specified in paragraph (n)(1)(iii) of this section. Confirmation numbers for trip notification calls are only valid for 48 hr from the intended sail date.

(iii) Trip limits: A vessel issued a limited access mackerel permit, as specified in § 648.4(a)(5)(iii), that does not have a representative provide the trip notification required in paragraph (n)(1)(i) of this section is prohibited from fishing for, possessing, harvesting, or landing more than 20,000 lb (9.07 mt) of mackerel per trip at any time, and may only land mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

(iv) If a vessel issued a limited access Atlantic mackerel permit, as specified in § 648.4(a)(5)(iii), intends to possess, harvest, or land more than 20,000 lb (9.07 mt) of mackerel per trip or per calendar day, and has a representative notify NMFS of an upcoming trip, is selected by NMFS to carry an observer, and then cancels that trip, the representative is required to provide notice to NMFS of the vessel name, vessel permit number, contact name for coordination of observer deployment, and telephone number or email address for contact, and the intended date, time, and port of departure for the cancelled trip prior to the planned departure time. In addition, if a trip selected for observer coverage is cancelled, then that vessel is required to carry an observer, provided an observer is available, on its next trip.

* * * * *

■ 4. In § 648.14, paragraphs (g)(2)(ii)(E), (g)(2)(iii)(A) and (C), and (g)(2)(iv) are revised to read as follows:

§ 648.14 Prohibitions.

* * * * *

(g) * * *

(2) * * *

(ii) * * *

(E) Possess more than 5,000 lb (2.27 mt) of butterfish, unless the vessel meets the minimum mesh requirements specified in § 648.23(a).

* * * * *

(iii) * * *

(A) Fish with or possess nets or netting that do not meet the gear requirements for Atlantic mackerel, longfin squid, *Illex*, or butterfish specified in § 648.23(a); or that are modified, obstructed, or constricted, if subject to the minimum mesh requirements, unless the nets or netting are stowed and not available for immediate use as defined in § 648.2 or the vessel is fishing under an exemption specified in § 648.23(a)(5).

* * * * *

(C) Enter or fish in the mackerel, squid, and butterfish bottom trawling restricted areas, as described in § 648.23(a)(6).

* * * * *

(iv) *Observer requirements for longfin squid fishery.* Fail to comply with any of the provisions specified in § 648.11.

* * * * *

■ 5. In § 648.23, paragraph (a) is revised to read as follows:

§ 648.23 Mackerel, squid, and butterfish gear restrictions.

(a) *Mesh restrictions and exemptions.* Vessels subject to the mesh restrictions in this paragraph (a) must render any net, or any piece of net, with a mesh size smaller than that specified in paragraphs (a)(1), (2), and (3) of this section not available for immediate use as defined in § 648.2.

(1) *Butterfish fishery.* Owners or operators of otter trawl vessels possessing more than 5,000 lb (2.27 mt) of butterfish harvested in or from the EEZ may only fish with nets having a minimum codend mesh of 3 inches (7.62 cm) diamond or square mesh, as measured by methods specified in § 648.80(f), applied throughout the codend for at least 100 continuous meshes forward of the terminus of the net, or for codends with less than 100 meshes, the minimum mesh size codend shall be a minimum of one-third of the net, measured from the terminus of the codend to the headrope.

(2) *Longfin squid fishery.* (i) Owners or operators of otter trawl vessels possessing longfin squid harvested in or from the EEZ may only fish with nets having a minimum mesh size of 2⅛ inches (54 mm) during Trimesters I (Jan–Apr) and III (Sept–Dec), or 1⅞ inches (48 mm) during Trimester II (May–Aug), diamond or square mesh, as measured by methods specified in § 648.80(f), applied throughout the codend for at least 150 continuous meshes forward of the terminus of the net, or, for codends with less than 150 meshes, the minimum mesh size codend shall be a minimum of one-third of the net measured from the terminus of the codend to the headrope.

(ii) *Jigging exemption.* During closures of the longfin squid fishery resulting from the butterfish mortality cap, described in § 648.24(c)(3), vessels fishing for longfin squid using jigging gear are exempt from the closure possession limit specified in § 648.26(b), provided that all otter trawl gear is stowed and not available for immediate use as defined in § 648.2.

(3) *Net obstruction or constriction.* Owners or operators of otter trawl vessels fishing for and/or possessing butterfish or longfin squid shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of a trawl net except any of the following materials may be used as specified:

(i) Splitting straps, and/or bull ropes or wire around the entire circumference of the codend provided these materials do not obstruct or constrict the top or the trawl net while it is being towed;

(ii) Net strengtheners (covers) that do not have a mesh opening of less than 5 inches (12.7 cm) diamond or square mesh, as measured by methods specified in § 648.80(f); and

(iii) A liner may be used to close the opening created by the rings in the aftermost portion of the net, provided the liner extends no more than 10 meshes forward of the aftermost portion of the net, the inside webbing of the codend shall be the same circumference or less than any strengthener and the liner is no more than 2 ft (61 cm) longer than any net strengthener.

(4) *Top of the regulated portion of the net* means the 50 percent of the entire regulated portion of the net that would not be in contact with the ocean bottom if, during a tow, the regulated portion of the net were laid flat on the ocean floor.

(5) *Illex fishery.* Seaward of the following coordinates, connected in the order listed by straight lines except otherwise noted, otter trawl vessels possessing longfin squid harvested in or from the EEZ and fishing for *Illex* during the months of June, July, August in Trimester II, and September in Trimester III are exempt from the longfin squid gear requirements specified in paragraph (a)(2) of this section, provided that landward of the specified coordinates they do not have available for immediate use, as defined in § 648.2, any net, or any piece of net, with a mesh size less than 1⅞ inches (48 mm) diamond mesh in Trimester II, and 2⅛ inches (54 mm) diamond mesh in Trimester III, or any piece of net, with mesh that is rigged in a manner that is prohibited by paragraphs (a)(2) and (a)(3)(ii) of this section.

Point	N. lat.	W. long.
M0	43°58.0′	[1]
M1	43°58.0′	67°22.0′
M2	43°50.0′	68°35.0′
M3	43°30.0′	69°40.0′
M4	43°20.0′	70°00.0′
M5	42°45.0′	70°10.0′
M6	42°13.0′	69°55.0′
M7	41°00.0′	69°00.0′
M8	41°45.0′	68°15.0′
M9	42°10.0′	[2] 67°10.0′
M10	41°18.6′	[2] 66°24.8′
M11	40°55.5′	66°38.0′
M12	40°45.5′	68°00.0′
M13	40°37.0′	68°00.0′
M14	40°30.0′	69°00.0′
M15	40°22.7′	69°00.0′
M16	40°18.7′	69°40.0′
M17	40°21.0′	71°03.0′
M18	39°41.0′	72°32.0′
M19	38°47.0′	73°11.0′
M20	38°04.0′	74°06.0′
M21	37°08.0′	74°46.0′
M22	36°00.0′	74°52.0′
M23	35°45.0′	74°53.0′
M24	35°28.0′	74°52.0′
M25	35°28.0′	[3]

[1] The intersection of 43°58.0′ N. latitude and the US-Canada Maritime Boundary.

[2] Points M9 and M10 are intended to fall along and are connected by the US-Canada Maritime Boundary.

[3] The intersection of 35°28.0′ N. latitude and the outward limit of the U.S. EEZ.

(6) *Mackerel, squid, and butterfish bottom trawling restricted areas*—(i) *Oceanographer Canyon.* No permitted mackerel, squid, or butterfish vessel may fish with bottom trawl gear in the Oceanographer Canyon or be in the Oceanographer Canyon unless transiting. Vessels may transit this area provided the bottom trawl gear is stowed and not available for immediate use as defined in § 648.2. Oceanographer Canyon is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

OCEANOGRAPHER CANYON

Point	N. lat.	W. long.
OC1	40°10.0′	68°12.0′
OC2	40°24.0′	68°09.0′
OC3	40°24.0′	68°08.0′
OC4	40°10.0′	67°59.0′
OC1	40°10.0′	68°12.0′

(ii) *Lydonia Canyon.* No permitted mackerel, squid, or butterfish vessel may fish with bottom trawl gear in the Lydonia Canyon or be in the Lydonia Canyon unless transiting. Vessels may transit this area provided the bottom trawl gear is stowed and not available for immediate use as defined in § 648.2. Lydonia Canyon is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

LYDONIA CANYON

Point	N. lat.	W. long.
LC1	40°16.0′	67°34.0′
LC2	40°16.0′	67°42.0′
LC3	40°20.0′	67°43.0′
LC4	40°27.0′	67°40.0′
LC5	40°27.0′	67°38.0′
LC1	40°16.0′	67°34.0′

* * * * *

■ 6. In § 648.26, paragraphs (b)(2) and (d)(2) are revised to read as follows:

§ 648.26 Mackerel, squid, and butterfish possession restrictions.

* * * * *

(b) * * *

(2) During a closure of the directed fishery for longfin squid for Trimester II, a vessel with a longfin squid/butterfish moratorium permit that is on a directed *Illex* squid fishing trip (*i.e.,* possess over 10,000 lb (4.54 mt) of *Illex*) and is seaward of the coordinates specified at § 648.23(a)(5), may possess up to 15,000 lb (6.80 mt) of longfin squid. Once landward of the coordinates specified at § 648.23(a)(5), such vessels must stow all fishing gear, and render it not available for immediate use as defined in § 648.2, in order to possess more than 2,500 lb (1.13 mt) of longfin squid per trip.

* * * * *

(d) * * *

(2) A vessel issued longfin squid/butterfish moratorium permit fishing with mesh less than 3 inches (76 mm) may not fish for, possess, or land more than 5,000 lb (2.27 mt) of butterfish per trip at any time, and may only land butterfish once on any calendar day, provided that butterfish harvest has not reached the DAH limit and the reduced possession limit has not been implemented, as described in § 648.24(c)(1). When butterfish harvest is projected to reach the DAH limit (as described in § 648.24(c)(1)), these vessels may not fish for, possess, or land more than 600 lb (0.27 mt) of butterfish per trip at any time, and may only land butterfish once on any calendar day.

* * * * *

■ 7. In § 648.80, paragraphs (a)(4)(iv)(B)(*2*) and (g)(5)(i) are revised to read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) * * *

(4) * * *

(iv) * * *

(B) * * *

(*2*) *Net size requirements.* Vessels may fish any combination of roundfish and flatfish gillnets, up to 50 nets. Such vessels, may stow additional nets not to exceed 150, counting the deployed net. Such vessels may stow additional nets in accordance with the definition of not available for immediate use as defined in § 648.2 not to exceed 150 nets, counting the deployed net.

* * * * *

(g) * * *

(5) * * *

(i) *Nets of mesh size less than 2.5 inches (6.4 cm).* A vessel lawfully fishing for small-mesh multispecies in the GOM/GB, SNE, or MA Regulated Mesh Areas, as defined in paragraphs (a), (b), and (c) of this section, with nets of mesh size smaller than 2.5 inches (6.4 cm), as measured by methods specified in paragraph (f) of this section, may use net strengtheners (covers, as described at § 648.23(a)(3)), provided that the net strengthener for nets of mesh size smaller than 2.5 inches (6.4 cm) complies with the provisions specified under § 648.23(a)(3)(iii).

* * * * *

■ 8. In § 648.90, paragraphs (a)(5)(i)(D)(*2*) and (*3*) are revised to read as follows:

§ 648.90 NE Multispecies assessment, framework procedures and specifications, and flexible area action system.

* * * * *

(a) * * *

(5) * * *

(i) * * *

(D) * * *

(*2*) *Atlantic halibut.* If NMFS determines the overall ACL for Atlantic halibut is exceeded, as described in this paragraph (a)(5)(i)(D)(*2*), by any amount greater than the management uncertainty buffer, the applicable AM areas shall be implemented and any vessel issued a NE multispecies permit or a limited access monkfish permit and fishing under the monkfish Category C or D permit provisions, may not fish for, possess, or land Atlantic halibut for the fishing year in which the AM is implemented, as specified in paragraph (a)(5)(i)(D) of this section. If the overall ACL is exceeded by more than 20 percent, the applicable AM area(s) for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, and the Council shall revisit the AM in a future action. The AM areas defined below are bounded by the following coordinates, connected in the order listed by rhumb lines, unless otherwise noted. Any vessel issued a limited access NE multispecies permit and fishing with trawl gear in the Atlantic Halibut Trawl Gear AM Area may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(*3*); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6). When in effect, a limited access NE multispecies permitted vessel with gillnet or longline gear may not fish or be in the Atlantic Halibut Fixed Gear AM Areas, unless transiting with its gear stowed and not available for immediate use as defined in § 648.2, or such gear was approved consistent with the process defined in § 648.85(b)(6). If a sub-ACL for Atlantic halibut is allocated to another fishery, consistent with the process specified at § 648.90(a)(4), and there are AMs for that fishery, the groundfish fishery AM shall only be implemented if the sub-ACL allocated to the groundfish fishery is exceeded (*i.e.,* the sector and common pool catch for a particular stock, including the common pool's share of any overage of the overall ACL caused by excessive catch by other sub-components of the fishery pursuant to § 648.90(a)(5), exceeds the common pool sub-ACL) and the overall ACL is also exceeded.

ATLANTIC HALIBUT TRAWL GEAR AM AREA

Point	N. latitude	W. longitude
1	42°00′	69°20′
2	42°00′	68°20′
3	41°30′	68°20′
4	41°30′	69°20′

ATLANTIC HALIBUT FIXED GEAR AM AREA 1

Point	N. latitude	W. longitude
1	42°30′	70°20′
2	42°30′	70°15′
3	42°20′	70°15′
4	42°20′	70°20′

ATLANTIC HALIBUT FIXED GEAR AM AREA 2

Point	N. latitude	W. longitude
1	43°10′	69°40′
2	43°10′	69°30′
3	43°00′	69°30′
4	43°00′	69°40′

(*3*) *Atlantic wolffish.* If NMFS determines the overall ACL for Atlantic wolffish is exceeded, as described in this paragraph (a)(5)(i)(D)(*3*), by any amount greater than the management uncertainty buffer, the applicable AM areas shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section. If the overall ACL is exceeded by more than 20 percent, the applicable AM area(s) for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, and the Council shall revisit the AM in a future action. The AM areas defined below are bounded by the following coordinates, connected in the order listed by rhumb lines, unless otherwise noted. Any vessel issued a limited access NE multispecies permit and fishing with trawl gear in the Atlantic Wolffish Trawl Gear AM Area may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(*3*); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6). When in effect, a limited access NE multispecies permitted vessel with gillnet or longline gear may not fish or be in the Atlantic Wolffish Fixed Gear AM Areas, unless transiting with its gear stowed and not available for immediate use as defined in § 648.2, or such gear was approved consistent with the process defined in § 648.85(b)(6). If a sub-ACL for Atlantic wolffish is allocated to another fishery, consistent with the process specified at § 648.90(a)(4), and AMs are developed for that fishery, the groundfish fishery AM shall only be implemented if the sub-ACL allocated to the groundfish fishery is exceeded (*i.e.,* the sector and common pool catch for a particular stock, including the common pool's share of any overage of the overall ACL caused by excessive catch by other sub-components of the fishery pursuant to § 648.90(a)(5), exceeds the common pool sub-ACL) and the overall ACL is also exceeded.

ATLANTIC WOLFFISH TRAWL GEAR AM AREA

Point	N. latitude	W. longitude
1	42°30′	70°30′
2	42°30′	70°15′
3	42°15′	70°15′
4	42°15′	70°10′
5	42°10′	70°10′
6	42°10′	70°20′
7	42°20′	70°20′
8	42°20′	70°30′

ATLANTIC WOLFFISH FIXED GEAR AM AREA 1

Point	N. latitude	W. longitude
1	41°40′	69°40′
2	41°40′	69°30′
3	41°30′	69°30′
4	41°30′	69°40′

ATLANTIC WOLFFISH FIXED GEAR AM AREA 2

Point	N. latitude	W. longitude
1	42°30′	70°20′
2	42°30′	70°15′
3	42°20′	70°15′
4	42°20′	70°20′

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[FR Doc. 2016–09681 Filed 4–25–16; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 679 and 680

[Docket No. 151020969–6335–02]

RIN 0648–BF46

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a rule that modifies regulations governing the Crab Rationalization (CR) Program. This final rule is comprised of three actions. Under the first action, this final rule modifies regulations to create an exemption for participants in the Western Aleutian Islands golden king crab (WAG) fishery from the prohibition against resuming fishing before all CR Program crab have been fully offloaded from a vessel. The first action is intended to allow participants in the WAG fishery to offload live crab to remote ports near the fishing grounds to supply live crab markets. Under the second action, this final rule amends CR Program regulations to clarify current document submission requirements for persons applying to receive captain and crew crab quota share, called C shares, by transfer. Under the third action, this final rule amends License Limitation Program (LLP) regulations to remove the requirement for endorsements on crab LLP licenses for specific crab fisheries in the Bering Sea and Aleutian Islands (BSAI) that are no longer managed under the LLP. This final rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP), and other applicable laws.

DATES: Effective April 26, 2016.

ADDRESSES: Electronic copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA), the final Regulatory Impact Review (RIR), and the Categorical Exclusion prepared for this action are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted by mail to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; by email to *OIRA_Submission@omb.eop.gov*; or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Keeley Kent, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS published a proposed rule to modify regulations governing the Crab Rationalization (CR) Program on February 23, 2016 (81 FR 8886). The comment period on the proposed rule ended on March 24, 2016. NMFS received four comment letters on the proposed rule that contained nine unique comments.

Background

This section includes a brief description of the CR Program and the CR Program regulations that would be modified by this final rule. Additional background information and detail is provided in the proposed rule and in the final rule to implement the CR Program (70 FR 10174, March 2, 2005).

The CR Program is a catch share program for nine BSAI crab fisheries that allocates those resources among harvesters, processors, and coastal communities. Under the CR Program, NMFS originally issued QS to eligible harvesters as determined by eligibility criteria and participation in the CR Program fisheries during qualifying years. A harvester's allocation of QS for a fishery was based on the landings made by his or her vessel in that fishery. Specifically, each allocation was the harvester's average annual portion of the total qualified catch in a crab fishery during a specific qualifying period. NMFS issued four types of QS: Catcher vessel owner (CVO) QS was assigned to holders of LLP licenses who delivered their catch onshore or to stationary floating crab processors; catcher/processor vessel owner (CPO) QS was assigned to LLP holders that harvested and processed their catch at sea; captains and crew onboard catcher/processor vessels were issued catcher/processor crew (CPC) QS; and captains and crew onboard catcher vessels were issued catcher vessel crew (CVC) QS. CVC and CPC QS are also known as "crew shares" or "C shares." Each year, a person who holds QS may receive individual fishing quota (IFQ), which is an exclusive harvest privilege for a portion of the annual total allowable catch (TAC). Under the CR Program, QS holders can form cooperatives to pool the harvest of the IFQ on fewer vessels to minimize operational costs and to provide additional flexibility in harvesting operations.

NMFS also issued processor quota share (PQS) under the CR Program. Each year, PQS yields an exclusive privilege to receive (for processing) a portion of the IFQ in each of the nine CR Program crab fisheries. This annual exclusive processing privilege is called individual processing quota (IPQ). A specified portion of IFQ derived from CVO QS must be matched and delivered to a processor with IPQ.

This final rule includes three actions: The first action creates an exemption for the WAG fishery from the CR Program prohibition against a vessel resuming fishing before the vessel has offloaded all CR Program crab from the vessel; the second action amends the CR Program regulations to clarify document submission requirements for individuals submitting an application to receive C shares by transfer; and the third action amends LLP regulations to remove BSAI crab species that are no longer managed under the LLP.

WAG Fishery

This section provides a brief description of the WAG fishery. For a more detailed description, please see Section 3.5 of the final RIR (see **ADDRESSES**) and the preamble of the proposed rule (81 FR 8886, February 23, 2016) for this action.

The WAG fishery is a relatively small but lengthy fishery prosecuted in extremely remote waters in the western Aleutian Islands. Historically, the community of Adak, Alaska, has been an active processing port for the WAG fishery. The WAG fishery has a relatively small annual total allowable catch compared to other BSAI crab fisheries, such as the Bristol Bay red king crab or snow crab fisheries. The total allowable catch for the 2015/2016 crab fishing year in the WAG fishery is 2.98 million pounds. The average total tank capacity of the catcher vessels that participate in the WAG fishery is between 120,000 and 150,000 pounds (see Section 3.5.3 of the final RIR). The WAG quota share (QS) holders have formed a harvest cooperative to ensure the efficient harvest of this remote fishery. In recent years the fleet has included two to three catcher vessels and a single catcher/processor. Section 3.5.1 of the final RIR provides additional detail on historical and recent participation in the WAG fishery.

Full Landing (Offload) Requirement

Prior to this final rule, the CR Program regulations prohibited a vessel from resuming fishing for CR Program crab or taking CR Program crab on board a vessel once a landing (offload) had commenced and until all CR Program crab were offloaded (see § 680.7(b)(3)). Under this regulation, a catcher vessel could offload portions of CR Program crab at multiple processors, but the vessel was prohibited from fishing for CR Program crab between these offloads.

NMFS implemented the prohibition against resuming fishing after a CR Program landing had commenced (hereafter called the full offload requirement) to facilitate enforcement of CR Program requirements for catch monitoring and full catch accounting. NMFS intended that this prohibition would prevent persons from, for example, discarding deadloss CR crab at sea prior to debiting this crab from the QS holder's IFQ account and subsequently high grading with CR crab harvested after the partial offload. The prohibition was intended to ensure that all fishery removals are monitored and reported in the CR Program catch accounting system. NMFS and ADF&G estimate total fishery removals through monitoring measures that include collection of data on landed catch weight and crab species composition, bycatch, and deadloss. See the final rule to implement the CR Program for a description of the monitoring and catch accounting provisions in the BSAI crab fisheries (70 FR 10174, March 2, 2005).

Catch Monitoring

The proposed rule and Section 3.6.2 of the final RIR describe that under the Crab FMP, the Alaska Department of Fish and Game (ADF&G) has implemented specific monitoring requirements in the WAG fishery. ADF&G requires catcher/processors in the WAG fishery to carry an observer on board the vessel for 100 percent of the vessel's trips. Catcher vessels in the WAG fishery are required to carry an observer on board for the harvest of at least 50 percent of their total harvest weight for each 3-month period of the overall 9-month season. The portion of actual observed harvest for catcher vessels in the WAG fishery has ranged from 57 percent to 70 percent annually. Vessel operators in the BSAI crab fisheries must complete a daily fishing log, which is issued by NMFS. Data from the daily fishing log are used, along with observer data, to verify landings and to ensure accurate accounting for all fishery removals.

Need for This Final Rule

The proposed rule preamble provides a description of the need for this final rule, which is briefly summarized here. In 2014, the processing facility in Adak began taking deliveries of WAG from catcher vessels to supply the live crab market. The crab are offloaded from the vessel and held at the processing facility until packed for transport on a commercial airline flight from Adak for delivery to domestic and international markets. The amount of crab offloaded at Adak and delivered to the live market is limited by the amount of aircraft hold space that is available to ship crab on bi-weekly flights from Adak. Aircraft capacity is approximately 8,000 to 14,000 pounds of crab per flight, depending on the type of aircraft. Vessels operating in the WAG fishery make crab deliveries opportunistically to the processing facility when live markets are available. Harvesters receive a higher price per pound for the live market than for crab delivered and processed to supply the traditional market for cooked and frozen crab sections (see Sections 3.5.4 and 3.5.5.1 of the final RIR for more information about deliveries to the live crab market from Adak).

The processing facility in Adak is currently able to receive only limited amounts of deliveries of crab for the live market, approximately 400,000 pounds for the 2015/2016 crab fishing year. As described in the proposed rule and Section 3.5.5 of the final RIR, the processing facility in Adak has encountered a number of operational challenges since it was established in 1999 and is not currently able to receive and process a full offload of crab, which can be up to 150,000 pounds in the WAG fishery. To comply with the full offload requirement, catcher vessels delivering crab for the live market were required to make partial landings at the Adak processing facility and transit several hundred miles from the fishing grounds to Dutch Harbor or Akutan to deliver the remaining crab on board the vessel to a processor that can accept a larger vessel load of crab from the vessels.

In February 2015, the Council received requests from representatives for WAG fishery participants and representatives of the community of Adak to exempt the WAG fishery from the CR Program prohibition against a person resuming fishing before all crab have been offloaded from a vessel. The Council recommended a regulatory amendment to exempt participants in the WAG fishery from the prohibition at § 680.7(b)(3) against a person resuming fishing before all CR Program crab have been offloaded from the vessel. The Council recommended this regulatory amendment to reduce inefficiencies and costs associated with requiring crab harvesting vessels to travel significant distances to land a partial load of WAG. This rule allows vessels harvesting WAG to make partial landings for delivery to the live market and continue harvesting crab before fully offloading at a processor that can receive a larger vessel load of crab.

This Final Rule

Action 1: Exempt the WAG Fishery From Full Offload Requirements

Action 1 creates an exemption for the WAG fishery from the prohibition at § 680.7(b)(3) that precludes a person from resuming fishing before all crab has been offloaded from a vessel. This rule will not alter current landing, reporting, and enforcement requirements in CR Program regulations.

This rule relieves a restriction on fishing activity in the WAG fishery and could increase operational efficiencies and revenues for participants in the WAG fishery. The Council determined that this rule is necessary for the WAG fishery due to the remote and economically challenging characteristics of the fishery as well as the benefits to harvesters, processors located in the western Aleutians, and any communities that develop a live market opportunity.

The proposed rule and Sections 3.7.1 and 3.7.2 of the final RIR describe how this rule will support the WAG fishery harvesters, processors, and communities that seek to diversify into the live crab market. The vessels currently participating in the WAG fishery could receive additional WAG fishery revenues due to the increased price they receive for crab in the live market. In addition, these WAG fishery harvesters could potentially reduce operating costs and increase efficiency by making small offloads of WAG crab to the western Aleutian Islands and resuming fishing to harvest a full vessel load of crab before transiting to offload the crab at a processor that can process all of the vessel's crab. This may result in reduced fuel costs and time spent returning to the fishing grounds.

The Council determined, and NMFS agrees, that this rule is not likely to have negative impacts on the management of the WAG fishery or on the catch monitoring and accounting requirements established by the CR Program. The Council considered the impacts of this rule on Federal management of the WAG fishery.

Section 3.7.4 of the final RIR describes that this rule will not change the current CR Program landing and reporting requirements, or catch accounting system. All retained crab catch will continue to be weighed, reported, and debited from the appropriate IFQ account under which the crab was harvested, and from the IPQ account under which the catch was processed.

The proposed rule and Section 3.7.5 of the final RIR describe the impacts of this rule on the State of Alaska (State) management of the WAG fishery. The Crab FMP establishes a State/Federal cooperative management regime that defers crab management to the State with Federal oversight. State regulations are subject to the provisions of the Crab FMP, including its goals and objectives, the Magnuson-Stevens Act national standards, and other applicable Federal laws. NMFS expects that ADF&G will make minor modifications to its sampling and observer coverage protocols for WAG fishery vessels that deliver crab to Adak for supply to the live market. NMFS anticipates that ADF&G will continue to coordinate with vessels in the WAG fishery to ensure that accurate biological data and catch accounting needs are met with minimal impacts on State management of the WAG fishery consistent with requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Crab FMP, and ADF&G regulations.

Action 2: Clarify Document Submission Requirements for Transfers of C Shares

Action 2 corrects regulations governing the approval criteria for an application to receive C shares by transfer. Under the CR Program, individuals must meet specific eligibility requirements to receive C shares by transfer. Amendment 31 to the Crab FMP modified several regulations governing the acquisition, use, and retention of C shares under the CR Program (80 FR 15891, March 26, 2015).

The eligibility requirements to receive C shares by transfer are located at § 680.41(c)(1)(vii). An applicant must meet initial eligibility criteria, which include having U.S. citizenship, at least 150 days of sea time in a U.S. commercial fishery, and recent participation as crew in at least one delivery of crab in the past year. In addition, § 680.41(c)(1)(vii) specifies that until May 1, 2019, in lieu of participation as crew in one of the CR Program fisheries in the 365 days prior to application submission, an individual may meet the crew participation requirement to receive C shares by transfer if that person (1) received an initial allocation of C shares (CVC or CPC QS), or (2) participated as crew in at least one delivery of crab in a CR Program crab fishery in any 3 of the 5 crab fishing years starting on July 1, 2000, through June 30, 2005.

The approval criteria for NMFS to approve an application to receive C shares by transfer are located at § 680.41(i). The regulations state that NMFS will not approve a transfer application unless it has determined that the applicant has met all approval criteria.

The regulations implementing the CR Program in 2005 included approval criteria for an individual to demonstrate to NMFS that he or she meets the eligibility requirements at § 680.41(c)(1)(vii) at the time of transfer. These approval criteria were inadvertently removed by amendatory language in the final rule that implemented regulations to provide harvesting cooperatives, crab processing quota shareholders, and Western Alaska Community Development Quota groups with the option to make web-based transfers (74 FR 51515, October 7, 2009). These approval criteria clarify for applicants that they must meet the eligibility requirements at § 680.41(c)(1)(vii) at the time of transfer, specifically that they must meet the recent participation requirements within the prior 365 days for their application for transfer to be approved. This final rule adds these approval criteria at § 680.41(i)(11) to ensure that the regulations are consistent with the original intent of the CR Program.

This final rule also adds regulations specifying that acceptable evidence for demonstrating required participation criteria specified at § 680.41(c)(1)(vii) is limited to an ADF&G fish ticket signed by the applicant or an affidavit from the vessel owner attesting to the applicant's fishery participation.

Action 3: Removing Certain Crab Species From LLP Regulations

Action 3 amends LLP regulations for consistency with the Crab FMP to avoid public confusion about the regulatory requirements that apply to certain crab stocks. This rule modifies the LLP regulations at § 679.4(k)(1)(ii) to remove the following five crab species: Aleutian Islands *C. bairdi* crab, Eastern Aleutian Islands red king crab; scarlet or deep sea king crab; grooved Tanner crab; and triangle Tanner crab. These stocks were removed from the Crab FMP in 2008 through Amendment 24 and are no longer subject to Federal management (73 FR 33925, June 16, 2008). This final rule adds Aleutian Islands *C. bairdi* crab to the list of stocks that NMFS proposed to remove from the LLP regulations. This change is described briefly in this section and in detail in the Change from the Proposed Rule section.

The preamble to the proposed rule provided a description of the LLP for crab stocks and Amendment 24 to the Crab FMP. In summary, the LLP limits the number, size, and specific operation of vessels deployed in BSAI crab fisheries managed under the Crab FMP and established several area/species endorsements for crab LLP licenses.

The CR Program removed BSAI crab fisheries that are managed under the CR Program from the LLP. The fisheries not included in the CR Program remained under the Crab FMP and under the governance of the LLP. Fishermen participating in those fisheries are required to have a crab LLP license with the appropriate area/species endorsement on the vessel. Although the Crab FMP establishes a State/Federal cooperative management regime that delegates crab management to the State with Federal oversight, NMFS manages Crab FMP stocks subject to LLP requirements.

Amendment 24 to the Crab FMP was approved in 2008. Amendment 24 removed 12 BSAI crab stocks not in the CR Program from the Crab FMP and deferred management to the State for these fisheries (73 FR 33925, June 16, 2008). Upon removal of these species from the Crab FMP, NMFS no longer had authority to manage the following species under the LLP program: Aleutian Islands *C. bairdi* crab, Eastern Aleutian Islands red king crab, scarlet or deep sea king crab, grooved Tanner crab, and triangle Tanner crab. The State currently manages these fisheries under State regulations.

Amendment 24 to the Crab FMP did not require implementing regulations. As a result, Aleutian Islands *C. bairdi* crab, Eastern Aleutian Islands red king crab, scarlet or deep sea king crab, grooved Tanner crab, and triangle Tanner crab were not removed from LLP regulations when Amendment 24 was implemented. In order to align LLP regulations with the Crab FMP and avoid confusion about regulatory requirements, this final rule modifies the LLP regulations at § 679.4(k)(1)(ii) to eliminate these species from the LLP regulations. This final rule does not change current management of these crab fisheries.

As described in the preamble to the proposed rule, NMFS will modify and reissue some crab LLP licenses to implement this final rule. Prior to this final rule, the LLP regulations specified that crab LLP licenses may have up to four area/species endorsements:

- Aleutian Islands *C. opilio/C. bairdi* crab;
- Eastern Aleutian Islands red king crab;
- Bering Sea Minor Species (includes Bering Sea golden king crab, scarlet or deep sea king crab, grooved Tanner crab, and triangle Tanner crab); and
- Norton Sound red and blue king crab.

To implement this final rule, NMFS will modify LLP licenses to remove the Aleutian Islands *C. bairdi* crab endorsement from the combined Aleutian Islands *C. opilio* and *C. bairdi* area/species endorsements for LLP licenses. Current LLP license records indicate there are 274 LLP licenses with the Aleutian Islands *C. opilio* and *C. bairdi* area/species endorsement. The endorsement will be modified so that it only includes Aleutian Islands *C. opilio,* and the 274 licenses will be reissued, reflecting the change.

To implement this final rule, NMFS will modify LLP licenses to remove the Eastern Aleutian Islands red king crab endorsement from LLP licenses. Current LLP license records indicate that there are 30 LLP licenses with this endorsement.

NMFS does not need to reissue LLP licenses with a Bering Sea Minor Species endorsement to implement this final rule. Even though scarlet or deep sea king crab, grooved Tanner crab, and triangle Tanner crab fisheries are no longer subject to Federal management, the Bering Sea golden king crab fishery is still included in the Crab FMP and is subject to Federal management under the LLP. Therefore an LLP license with a Bering Sea Minor Species endorsement is still required for participation in this fishery. Because of this, NMFS does not need to remove the endorsement as a whole. The LLP regulations determine the specific area/species endorsements to which the Bering Sea Minor Species endorsement applies, so NMFS has determined that it can implement this change by amending the LLP regulations, rather than reissuing the licenses carrying this endorsement. Current LLP license records indicate that there are 287 LLP licenses with this endorsement.

Many LLP license holders hold more than one area/species endorsement on their LLP license, therefore NMFS will only need to reissue 274 LLP licenses due to the overlap in LLP license holders with the Aleutian Islands *C. opilio* and *C. bairdi* crab endorsement and the Eastern Aleutian Islands red king crab endorsement. NMFS will incur minor administrative costs to reissue LLP licenses to remove the Aleutian Islands *C. bairdi* crab and Eastern Aleutian Islands red king endorsement. This action will not change current management of the Aleutian Islands *C. bairdi* crab, Eastern Aleutian Islands red king crab, Bering Sea golden king crab, scarlet or deep sea king crab, grooved Tanner crab, and triangle Tanner crab fisheries.

Comments and Responses

NMFS received four comment letters from the public that contained nine unique substantive comments during the public comment period for the proposed rule to implement these three actions. NMFS' responses to these comments are presented below.

Comment 1: All four commenters expressed support for Action 1 in this final rule, to create an exemption for the WAG fishery from the CR Program prohibition against a vessel resuming fishing before the vessel has offloaded all CR Program crab from the vessel.

Response: NMFS acknowledges these comments.

Comment 2: One commenter requested that NMFS implement this final rule as soon as possible so that it is effective before the end of the current WAG fishing season on April 30, 2016.

Response: NMFS acknowledges this comment. This final rule relieves a restriction on fishing activity in the WAG fishery and could increase operational efficiencies and revenues for participants in the WAG fishery. Therefore, for reasons discussed in the Classification section, the NMFS Assistant Administrator has waived the 30-day delay in effectiveness of this final rule to allow WAG participants to benefit from this exemption before the end of the 2015/2016 WAG fishing season. This will allow WAG participants to make partial offloads and then resume fishing on the day that this final rule is published in the **Federal Register**.

Comment 3: The proposed revisions to § 679.4(k)(1)(ii)(A) do not appear to remove the LLP requirement for Aleutian Islands *C. bairdi* crab. Aleutian Islands *C. bairdi* crab was removed from the Crab FMP under Amendment 24. Therefore, the final rule should remove this stock from the LLP regulations along with the proposed stocks.

Response: NMFS agrees. NMFS inadvertently omitted Aleutian Islands *C. bairdi* crab from the list of crab stocks to be removed from the LLP regulations in the proposed rule. As described in the Change from the Proposed Rule section, this final rule removes Aleutian Islands *C. bairdi* crab from the list of crab stocks to be removed from the LLP regulations as recommended by the commenter.

Comment 4: The proposed rule incorrectly stated that observer or dockside sampling data are used to debit IFQ and IPQ accounts in the CR Program online catch accounting system. The RIR/IRFA correctly states that crab landings data are used to debit IFQ and IPQ accounts under the CR Program.

Response: NMFS agrees. While the preamble to the proposed rule contained an incorrect statement regarding the type of data used to debit IFQ and IPQ accounts, the RIR/IRFA correctly stated that *eLandings* is used for catch accounting purposes to debit crab landings from IFQ and IPQ accounts. The incorrect statement in the preamble to the proposed rule did not change the issues involved in establishing this final rule to exempt the WAG fishery from full offload requirements. No changes are necessary to address this comment in the final rule.

Comment 5: The proposed rule incorrectly states that ADF&G requires operators in the BSAI crab fisheries to complete a daily fishing log. NMFS regulations at § 680.5(a) and § 679.5(c)(1) require operators to complete the daily fishing log.

Response: NMFS agrees that the requirement to complete a daily fishing log is a NMFS requirement, rather than an ADF&G requirement. The RIR/IRFA correctly stated that NMFS regulations at 680.5(a) and 679.5(c)(1) require operators to complete the daily fishing log. No changes are necessary to address the comment in this final rule.

Comment 6: NMFS should consider expanding the exemption for the WAG fishery from the full offload delivery requirements to all CR Program fisheries. Participants in other CR Program fisheries have an interest in exploring the possibilities for partial offloads to supply live crab markets for other CR Program fisheries from other communities. Expanding the exemption could allow other participants to take advantage of the efficiency created by the exemption and the opportunity to access markets with higher prices for crab.

Response: As noted in the proposed rule and the RIR/IRFA and the final RIR, during the Council's initial discussion of the need for this action, it also considered extending the exemption from the prohibition against resuming fishing before all CR Program crab have been landed to all CR Program fisheries. However, the Council rejected this approach because it was too broad for the stated objectives, which were specific to the WAG fishery. Expanding the exemption to CR Program fisheries is outside the scope of this final rule.

Comment 7: The commenter expressed support for the addition of approval criteria at § 680.41(i)(11) under Action 2 of the proposed rule to correct the previous error in the amendatory language of the final rule that implemented regulations to provide entities with the option to make Web-based transfers.

Response: NMFS acknowledges this comment.

Comment 8: The commenter noted ongoing concerns with the implementation of C share provisions under the CR Program, including the time lag between the Council final action on Amendment 31 to the Crab FMP (April 2008) and the publication of the final rule implementing Amendment 31 (March 26, 2015, 80 FR 15891).

Response: NMFS acknowledges this comment but notes that Action 2 of this final rule only corrects a previous amendatory error. Action 2 of this final rule does not modify the existing C share provisions under the CR Program. Comments about the implementation of Amendment 31 to the Crab FMP are outside of the scope of this final rule.

Comment 9: NMFS should carefully review its regulations prior to the implementation of provisions under Amendment 31 to the Crab FMP that can revoke C shares so that quota shareholders and prospective shareholders have clarity and certainty regarding their eligibility and QS holdings.

Response: NMFS acknowledges this comment but notes that the implementation of Amendment 31 is outside the scope of this final rule.

Change From the Proposed Rule

This final rule includes one change to the proposed regulatory text. This final rule modifies the regulatory text at § 679.4(k)(1)(ii) to eliminate Aleutian Islands *C. bairdi* crab from LLP regulations, in addition to removing the proposed four crab stocks: Eastern Aleutian Islands red king crab; scarlet or deep sea king crab; grooved Tanner crab; and triangle Tanner crab.

NMFS has determined that this change to the final rule is necessary to remove the Aleutian Islands *C. bairdi* crab stock from the LLP regulations in addition to the four species included in the proposed rule because Aleutian Islands *C. bairdi* crab was also eliminated from the Crab FMP with Amendment 24. As described in the response to comment 3 in the Comments and Responses section, NMFS did not propose this regulatory change. This change corrects that error. This change from the proposed to final rule is necessary to ensure the regulations are consistent with the Crab FMP.

Classification

Pursuant to section 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this rule is consistent with the Crab FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

Administrative Procedure Act

The NMFS Assistant Administrator finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for the provisions in this final rule. A delay in the effective date of this rule would unnecessarily delay regulatory revisions that would provide an exemption from the prohibition against resuming fishing before all CR Program crab have been fully offloaded from a vessel. The revised regulations will allow participants in the WAG fishery to conduct partial offloads and resume fishing before all CR Program crab have been fully offloaded. A delay in effectiveness of the revised regulations would prevent participants from conducting partial offloads and resuming fishing before the close of the 2015/2016 WAG fishing season on April 30, 2016, thus undermining the purpose of the rule.

As described in the preamble to the proposed and final rule, NMFS implemented the prohibition against resuming fishing after a CR Program landing had commenced to facilitate enforcement of CR Program requirements for catch monitoring and full catch accounting. NMFS intended that this prohibition would prevent persons from discarding deadloss CR crab at sea prior to debiting this crab from the QS holder's IFQ account and subsequently high grading with CR crab harvested after the partial offload. The prohibition was intended to ensure that all fishery removals are monitored and reported in the CR Program catch accounting system.

The Assistant Administrator has determined that this prohibition is unnecessary for the WAG fishery because participants in this fishery are unlikely to discard and subsequently high grade Western Aleutian golden king crab. First, crew harvesting Western Aleutian golden king crab only retain healthy crab of legal size and discard all dead, damaged, or diseased crab during the sorting process at the harvesting grounds. Thus, there is little incentive to discard and high grade after landing has commenced. Second, at-sea discards of unreported crab as a result of quota overages are unlikely because the CR Program cooperative structure, online quota transfers, and post-delivery quota transfers gives CR Program participants several options to obtain additional Individual Fishing Quota. Finally, fifty to seventy percent of the WAG fishery is monitored by observers. The presence of observers on board vessels reduces the likelihood of illegal discards and high grading of crab.

This final rule will increase operational efficiencies and revenues for participants in the WAG fishery. Prior to this final rule, vessels could offload portions of CR Program crab at multiple processors but were prohibited from resuming fishing or taking CR Program crab on board the vessel once a landing had commenced and until all CR crab were landed. As noted in the proposed rule and final RIR, the prohibition against resuming fishing before all crab have been offloaded from a vessel created inefficiencies and costs associated with requiring crab harvesting vessels to travel significant distances to land a partial load of WAG. Allowing vessels harvesting WAG to make partial landings for delivery to the live market and continue harvesting crab before fully offloading at a processor that can receive a larger vessel load of crab is expected to increase operational efficiencies and revenues for participants in the WAG fishery.

Waiving the 30-day delay in this final rule's effectiveness will help improve economic opportunities for the WAG fishery, which is remote and economically challenging for participants, as well as create the possibility of mutual benefits to harvesters, processors located in the western Aleutians, and any communities that develop a live market opportunity. There is no administrative need for additional time beyond the publication of this final rule. This is a noncontroversial action that positively affects a small number of fishery participants by relieving a restriction. NMFS is unaware of any participants who would not be in favor of or would be potentially harmed by waiving the 30-day delay in effectiveness. Without waiving the 30-day delay in effectiveness, WAG participants affected by this final rule would not be able to benefit from the exemption before the end of the 2015/2016 fishing season, which would delay the associated economic opportunities being sought through this final rule.

For these reasons, the NMFS Assistant Administrator finds good cause to waive the 30-day delay in effectiveness and this final rule is effective on the day that it is published in the **Federal Register**.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. The preamble to the proposed rule (81 FR 8886, February 23, 2016) and the preamble to this final rule serve as the small entity compliance guide. This rule does not require any additional compliance from small entities that is not described in the preamble to the proposed rule and this final rule. Copies of the proposed rule and this final rule are available from NMFS at the following Web site: *http://alaskafisheries.noaa.gov.*

Final Regulatory Flexibility Analysis (FRFA)

Section 604 of the Regulatory Flexibility Act requires an agency to prepare a FRFA after being required to publish a general notice of proposed rulemaking and when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code. The following paragraphs constitute the FRFA for this action.

Section 604 describes the required contents of a FRFA: (1) A statement of the need for, and objectives of, the rule; (2) a statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

Need for and Objectives of the Rule

A description of the need for, and objectives of, the rule is contained in the preamble to the proposed rule and this final rule and is not repeated here. This FRFA incorporates the IRFA and the summary of the IRFA in the proposed rule (81 FR 8886, February 23, 2016).

Summary of Significant Issues Raised During Public Comment

NMFS published a rule that proposed to modify regulations governing the CR Program on February 23, 2016 (81 FR 8886). An IRFA was prepared and summarized in the Classification section of the preamble to the proposed rule. The comment period on the proposed rule ended on March 24, 2016. NMFS received 4 letters of public comment containing nine unique substantive comments on the proposed rule. These comment letters did not address the IRFA. The comments did generally address the economic impacts of the rule by requesting that the final rule be implemented as soon as possible to allow the participants in the WAG fishery to conduct partial offloads and resume fishing prior to the close of the WAG fishery season on April 30, 2016. As explained previously, the NMFS Assistant Administrator finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for the provisions in this final rule. The Chief Counsel for Advocacy of the Small Business Administration did not file any comments on the proposed rule.

Number and Description of Small Entities Regulated by This Rule

The Small Business Administration defines a small commercial shellfish fishing entity as one that has annual gross receipts, from all activities of all affiliates, of less than $5.5 million (79 FR 33647, June 12, 2014).

Action 1 creates an exemption for the WAG fishery from the prohibition at § 680.7(b)(3) that precludes a person from resuming fishing before all crab has been offloaded from a vessel. Under Action 1, the entities directly regulated by this rule are those entities that participate in the WAG fishery: Vessel operators, QS holders, and IFQ holders. This rule does not directly affect PQS holders, IPQ holders, or communities. Three vessels were active in the 2013/2014 WAG fishery. These vessels received the majority of their revenue from shellfish from 2012 through 2014. The entities directly regulated by this rule are members of a cooperative that exceeds the $5.5 million revenue threshold for a shellfish entity and are not considered small entities (see Section 4.3 of the final RIR). The number of WAG fishery QS holders is listed in Table 3–3 in Section 3.5.2 of the final RIR. Gross revenue information is not available for these QS holders. Of the QS holders listed, at least 3 of the entities holding catcher vessel owner (CVO) QS are known to be large entities as defined by the Small Business Administration. The remaining 11 CVO QS holders and 8 CVC QS holders are assumed to be small entities.

Action 2 adds regulatory text that was inadvertently removed. The effect of Action 2 on directly regulated small entities is described in the FRFA prepared for a final rule implementing regulations to provide harvesting cooperatives, crab PQS holders, and Western Alaska Community Development Quota groups with the option to make web-based transfers (74 FR 51515, October 7, 2009) and for regulations implementing Amendment 31 to the Crab FMP (80 FR 15891, March 26, 2015).

Action 3 removes regulatory requirements for LLP licenses that are no longer applicable under the Crab FMP as described in the analysis for Amendment 24 to the Crab FMP (73 FR 33925, June 16, 2008). Action 3 will not impact directly regulated entities because no entities (small or otherwise) are currently participating in these crab fisheries, and this rule will not preclude them from doing so under the appropriate State regulations.

Recordkeeping and Reporting Requirements

Action 1 will not require any modifications to the current Federal recordkeeping and reporting requirements for the CR Program. Action 2 references the collection-of-information requirement for the Application for Transfer of Crab QS or PQS (Office of Management and Budget (OMB) Control Number 0648–0514), however, this rule does not require modifications to the application and will not increase the public reporting burden associated with it. Action 3 will not require LLP license holders to take any action relative to their LLP licenses and will not impact any public reporting burden. There was a collection-of-information requirement for the initial issuance of LLPs, OMB Control Number 0648–0334; however after initial issuance, LLPs do not expire.

Description of Significant Alternatives to the Final Action That Minimize Adverse Impacts on Small Entities

An FRFA also requires a description of any significant alternatives to this final rule that would accomplish the stated objectives, are consistent with applicable statutes, and that would minimize any significant economic impact of this rule on small entities. Under all actions, NMFS considered two alternatives—the no action alternative and the action alternative. During the Council's initial discussion of the need for Action 1, it also considered extending the exemption from the prohibition against resuming fishing before all CR Program crab have been landed to all CR Program fisheries. However, the Council rejected this approach because it was too broad for the stated objectives, which were specific to the WAG fishery. Because Actions 2 and 3 are administratively focused and had a narrow purpose and need, there were no alternatives except the action alternative and the no action alternative that were considered.

Under Action 1, the no action alternative is not expected to minimize adverse economic impacts for the small entities directly regulated by this rule. These entities are currently required to make partial landings at the Adak processing facility and transit several hundred miles from the fishing grounds to deliver the remaining crab on board the vessel to a processor that can accept a full offload of crab from the vessels. The no action alternative results in operating inefficiencies and additional costs from requiring vessels to travel significant distances to land a partial load of WAG. The action alternative is expected to provide positive economic impacts for small entities compared to the no action alternative because it lifts a restriction on WAG fishery participants. Therefore, no directly regulated small entities are expected to be adversely impacted by this rule. The action alternative could improve operating efficiencies and increase fishery revenues for WAG fishery participants by supporting the opportunity to supply crab to the live market for a premium price compared to crab delivered to traditional markets.

Under Action 2, the no action alternative would not correct the error in regulation. The action alternative reinstates the regulation that was incorrectly removed. This rule will not change the impacts on small entities from the impacts considered in the FRFA prepared for the final rule implementing regulations to provide harvesting cooperatives, crab processing quota share holders, and Western Alaska Community Development Quota groups with the option to make web-based transfers (74 FR 51515, October 7, 2009) and for Amendment 31 to the Crab FMP. The FRFA for the web-based transfers rule described the impacts of the rule as beneficial to small entities because the rule would simplify the process for completing transfers. The FRFA for Amendment 31 described that under Amendment 31, the submission of documentation demonstrating active participation for C share QS holders was necessary to implement the active participation requirements, but was not expected to have a significant impact on small entities due to the need to submit the information only upon the request to receive C share QS by transfer.

Under Action 3, the no action alternative would retain regulations for LLP license requirements that are no longer applicable under the Crab FMP. The action alternative makes LLP license requirements consistent with the Crab FMP and reduces potential confusion for small entities. Action 3 requires the reissuance of LLP licenses to the 274 license holders with the Aleutian Islands *C. bairdi/C. opilio* crab and/or the Eastern Aleutian Islands red king crab endorsement; however, this requires no action taken on the part of any small entities. Action 3 will not impact directly regulated entities because no entities are currently participating in these crab fisheries, and this rule will not preclude them from doing so under the appropriate State regulations.

Collection-of-Information Requirements

This rule references collection-of-information requirements subject to the Paperwork Reduction Act (PRA), which have been approved by OMB and are listed below by OMB control number.

OMB Control Number 0648–0334

The crab LLP is mentioned in this rule, but there will be no change in burden or cost results. NMFS will modify LLP licenses to remove the Aleutian Islands *C. bairdi/C. opilio* crab and Eastern Aleutian Islands red king crab endorsement. NMFS does not expect that removal of these area/species endorsements will impact LLP license holders.

OMB Control Number 0648–0514

The Application for CR Program Eligibility to Receive QS/PQS or IFQ/IPQ by Transfer and the Application for Transfer of Crab QS/PQS are mentioned in this rule, but there will be no change in burden or cost results. The fishery participation approval criteria for an individual to receive C share QS by transfer were inadvertently deleted from the regulations with a final rule published on October 7, 2009 (74 FR 51515) and will be replaced by this action.

Send comments on these or any other aspects of the collection of information, to NMFS (see **ADDRESSES**), and by email to *OIRA_Submission@omb.eop.gov* or fax to 202–395–5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirement of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at: *http://www.cio.noaa.gov/services_programs/prasubs.html.*

List of Subjects

50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: April 20, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 679 and part 680 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 2. In § 679.4,
■ a. Remove paragraph (k)(1)(ii)(A);
■ b. Redesignate paragraph (k)(1)(ii)(B) as new paragraph (k)(1)(ii)(A);
■ c. Revise newly redesignated paragraph (k)(1)(ii)(A);
■ d. Redesignate paragraph (k)(1)(ii)(C) as new paragraph (k)(1)(ii)(B) and paragraph (k)(1)(ii)(D)(*1*) as new paragraph (k)(1)(ii)(C);

■ f. Revise newly redesignated paragraph (k)(1)(ii)(C); and

■ g. Remove paragraph (k)(1)(ii)(D).

The revisions read as follows:

§ 679.4 Permits.

* * * * *

(k) * * *

(1) * * *

(ii) * * *

(A) Aleutian Islands Area *C. opilio.*

* * * * *

(C) Minor Species endorsement for Bering Sea golden king crab (*Lithodes aequispinus*).

* * * * *

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 3. The authority citation for 50 CFR part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

■ 4. In § 680.7, revise paragraph (b)(3) to read as follows:

§ 680.7 Prohibitions.

* * * * *

(b) * * *

(3) Resume fishing for CR crab or take CR crab on board a vessel once a landing has commenced and until all CR crab are landed, unless fishing in the Western Aleutian Islands golden king crab fishery.

* * * * *

■ 5. In § 680.41, add paragraph (i)(11) to read as follows:

§ 680.41 Transfer of QS, PQS, IFQ and IPQ.

* * * * *

(i) * * *

(11) The person applying to receive the CVC QS or IFQ or CPC QS or IFQ by transfer has submitted proof of at least one delivery of a crab species in any CR crab fishery in the 365 days prior to submission to NMFS of the Application for transfer of crab QS/IFQ or PQS/IPQ, except if eligible under the eligibility requirements in paragraph (c)(1)(vii)(B) of this section. Proof of this landing is—

(i) Signature of the applicant on an ADF&G fish ticket; or

(ii) An affidavit from the vessel owner attesting to that person's participation as a member of a fish harvesting crew on board a vessel during a landing of a crab QS species within the 365 days prior to submission of an Application for transfer of crab QS/IFQ or PQS/IPQ.

* * * * *

[FR Doc. 2016–09678 Filed 4–25–16; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 80
Tuesday, April 26, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB–2016–0016]

RIN 3170–AA49

Amendments to the 2013 Mortgage Servicing Rules Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Reopening of comment period with request for public comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is reopening the comment period for a specific aspect of the proposed rule published by the Bureau in the **Federal Register** on December 15, 2014 (79 FR 74176). On December 15, 2014, the Bureau published for notice and comment proposed amendments to certain mortgage servicing provisions in Regulation X and Regulation Z. Among other things, the proposed rule: Addressed requiring servicers to provide modified periodic statements under Regulation Z to consumers who have filed for bankruptcy, subject to certain exceptions; included related proposed sample periodic statement forms; and indicated that the Bureau intended to conduct consumer testing of the proposed sample forms and would publish and seek comment on a report summarizing the methods and results of such testing prior to finalizing any sample forms. The original comment period to the proposed rule closed on March 16, 2015. The Bureau conducted consumer testing of sample periodic statement forms for consumers in bankruptcy after the close of the original comment period. The Bureau now reopens the comment period until May 26, 2016 to seek comment specifically on the report summarizing consumer testing of sample periodic statement forms for consumers in bankruptcy.

DATES: The comment period for the proposed rule published on December 15, 2014 (79 FR 74176) is reopened. Comments must be received on or before May 26, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2016–0016 or RIN 3170–AA49, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: FederalRegisterComments@cfpb.gov.* Include Docket No. CFPB–2016–0016 or RIN 3170–AA49 in the subject line of the email.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20002. *Instructions:* All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1275 First Street NE., Washington, DC 20002, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Dania L. Ayoubi or David H. Hixson, Counsels, or Laura A. Johnson, Senior Counsel; Office of Regulations, at 202–435–7700.

SUPPLEMENTARY INFORMATION:

I. Background

In January 2013, the Bureau issued several final rules concerning mortgage markets in the United States (2013 Title XIV Final Rules), pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Public Law 111–203, 124 Stat. 1376 (2010).[1] Two of these rules were (1) the Mortgage Servicing Rules Under the Real Estate Settlement Procedures Act (Regulation X) (2013 RESPA Servicing Final Rule);[2] and (2) the Mortgage Servicing Rules Under the Truth in Lending Act (Regulation Z) (2013 TILA Servicing Final Rule).[3] These two rules are referred to collectively as the 2013 Mortgage Servicing Final Rules.

The Bureau clarified and revised those rules through notice and comment rulemaking during the summer and fall of 2013 in the (1) Amendments to the 2013 Mortgage Rules under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) (July 2013 Mortgage Final Rule)[4] and (2) Amendments to the 2013 Mortgage Rules under the Equal Credit Opportunity Act (Regulation B), Real Estate Settlement Procedures Act (Regulation X), and the Truth in Lending Act (Regulation Z) (September

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[1] Specifically, on January 10, 2013, the Bureau issued Escrow Requirements Under the Truth in Lending Act (Regulation Z), 78 FR 4725 (Jan. 22, 2013) (2013 Escrows Final Rule), High-Cost Mortgage and Homeownership Counseling Amendments to the Truth in Lending Act (Regulation Z) and Homeownership Counseling Amendments to the Real Estate Settlement Procedures Act (Regulation X), 78 FR 6855 (Jan. 31, 2013) (2013 HOEPA Final Rule), and Ability to Repay and Qualified Mortgage Standards Under the Truth in Lending Act (Regulation Z), 78 FR 6407 (Jan. 30, 2013) (January 2013 ATR Final Rule). The Bureau concurrently issued a proposal to amend the January 2013 ATR Final Rule, which was finalized on May 29, 2013. *See* 78 FR 6621 (Jan. 30, 2013) (January 2013 ATR Proposal) and 78 FR 35429 (June 12, 2013) (May 2013 ATR Final Rule). On January 17, 2013, the Bureau issued the Real Estate Settlement Procedures Act (Regulation X) and Truth in Lending Act (Regulation Z) Mortgage Servicing Final Rules, 78 FR 10901 (Feb. 14, 2013) (Regulation Z) and 78 FR 10695 (Feb. 14, 2013) (Regulation X) (2013 Mortgage Servicing Final Rules). On January 18, 2013, the Bureau issued the Disclosure and Delivery Requirements for Copies of Appraisals and Other Written Valuations Under the Equal Credit Opportunity Act (Regulation B), 78 FR 7215 (Jan. 31, 2013) (2013 ECOA Valuations Final Rule) and, jointly with other agencies, issued Appraisals for Higher-Priced Mortgage Loans (Regulation Z), 78 FR 10367 (Feb. 13, 2013) (2013 Interagency Appraisals Final Rule). On January 20, 2013, the Bureau issued the Loan Originator Compensation Requirements under the Truth in Lending Act (Regulation Z), 78 FR 11279 (Feb. 15, 2013) (2013 Loan Originator Final Rule).

[2] 78 FR 10695 (Feb. 14, 2013).

[3] 78 FR 10901 (Feb. 14, 2013).

[4] 78 FR 44685 (July 24, 2013).

2013 Mortgage Final Rule).[5] In October 2013, the Bureau issued clarified compliance requirements in relation to successors in interest, early intervention requirements, bankruptcy law, and the Fair Debt Collection Practices Act (FDCPA),[6] through an Interim Final Rule (IFR)[7] and a contemporaneous compliance bulletin (October 2013 Servicing Bulletin).[8] Among other things, the IFR provisionally exempted servicers from the periodic statement requirement for a mortgage loan while the consumer is a debtor in bankruptcy and indicated that the Bureau would continue to examine the issue and might reinstate the requirement to provide a consumer in bankruptcy with a periodic statement.[9] In October 2014, the Bureau added an alternative definition of small servicer in the Amendments to the 2013 Mortgage Rules under the Truth in Lending Act (Regulation Z).[10] The purpose of each of these updates was to address important questions raised by industry, consumer advocacy groups, and other stakeholders. The 2013 Mortgage Servicing Final Rules, as amended in 2013 and 2014, are referred to herein as the Mortgage Servicing Rules.

On December 15, 2014, the Bureau published for notice and comment a proposed rule amending Regulation X and Regulation Z.[11] Among other things, the proposed amendments to § 1026.41 of Regulation Z would require servicers to provide modified periodic statements to consumers who have filed for bankruptcy, subject to certain exceptions, with content varying depending on whether the consumer is a debtor in a Chapter 7 or Chapter 11 bankruptcy case, or in a Chapter 12 or Chapter 13 bankruptcy case, respectively.[12] The Bureau also proposed related sample periodic statement forms,[13] and indicated that it would conduct consumer testing of the proposed sample forms. As the Bureau explained in the proposed rule, "[p]rior to finalizing any such sample forms, the Bureau will publish and seek comment on a report summarizing the methods and results of the consumer testing."[14]

The comment period for the proposed rule closed on March 16, 2015. In response to the proposed rule, the Bureau received over 100 comment letters during the comment period from numerous commenters, including servicers, consumer groups, trade associations, other government entities, and individual consumers. In particular, the Bureau received a number of comments addressing the merits of the proposed provisions on the bankruptcy period statements. After the close of the comment period, interested parties submitted to the Bureau additional oral ex parte presentations and written ex parte comments on the proposed rule.[15] In addition, the Bureau has conducted ex parte outreach to servicers to gain insight into their mortgage processing systems and capabilities to implement proposed changes to the servicing of loans in bankruptcy.[16] After the close of the comment period, as discussed in more detail below, the Bureau conducted consumer testing of sample periodic statement forms that servicers could use for consumers in bankruptcy to comply with the related proposed amendments to § 1026.41.

II. Discussion and Request for Comment

Following publication of the proposed rule, the Bureau engaged Fors Marsh Group (FMG), a research and consulting firm that specializes in designing disclosures and consumer testing, to conduct one-on-one cognitive interviews of consumers to test the Bureau's proposed sample periodic statement forms for consumers who have filed for bankruptcy, with content varying depending on whether the consumer is a debtor in a Chapter 7 or Chapter 11 bankruptcy case, or in a Chapter 12 or Chapter 13 bankruptcy case, respectively. As described in detail in the report summarizing the testing,[17] the Bureau and FMG worked closely to develop and test the Bureau's proposed sample modified periodic statement forms and various revisions thereto. Between May 2015 and August 2015, FMG conducted three rounds of one-on-one cognitive interviews regarding the forms with a total of 51 participants in Arlington, Virginia, Fort Lauderdale, Florida, and Chicago, Illinois. Efforts were made to recruit a significant number of participants who had filed for bankruptcy, who had a mortgage (preferably when they filed for bankruptcy), and who had trouble making mortgage payments in the last two years.

During the interviews, participants were shown sample modified periodic statements. In general, participants who had filed for Chapter 7 bankruptcy reviewed the statements tailored to borrowers who are debtors in a Chapter 7 or Chapter 11 bankruptcy case, while participants who had filed for Chapter 13 bankruptcy reviewed the statements tailored to borrowers who are debtors in a Chapter 12 or Chapter 13 bankruptcy case. Participants were asked specific questions to test their understanding of the information presented in the sample statements, how easily they could find various pieces of information presented in the sample statements, as well as to learn about how they would use the information presented in the sample statements. The Bureau and FMG worked closely to develop revisions to all of the forms between rounds to address any usability or comprehension issues that became apparent, as well as to respond further to public comments the Bureau received on the proposed rule.

As noted above, the Bureau indicated in its proposed rule that it would conduct consumer testing of sample periodic statement forms for consumers in bankruptcy and publish a report prior to finalizing any such sample forms. The Bureau conducted the consumer testing after the close of the original comment period and is now issuing this notice to reopen the comment period in order to publish and seek public comment specifically on the report summarizing the methods and results of the testing. The Bureau is not soliciting comment on other aspects of the proposed rule, including the merits of the proposal to require periodic statements for consumers in bankruptcy under certain circumstances. As noted above, the Bureau has already received a number of comments on the merits of the proposal, and any further such comments will be considered outside of the scope of this request for public comment. Therefore, the Bureau encourages commenters to limit their submissions accordingly to the report, its findings, and conclusions.

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[5] 78 FR 60381 (Oct. 1, 2013).

[6] 15 U.S.C. 1692 et seq.

[7] 78 FR 62993 (Oct. 23, 2013).

[8] Consumer Fin. Prot. Bureau, CFPB Bulletin 2013–12, *Implementation Guidance for Certain Mortgage Servicing* Rules (Oct. 15, 2013), *available at http://files.consumerfinance.gov/f/201310_cfpb_mortgage-servicing_bulletin.pdf.*

[9] 78 FR 62993, 63000–01 (Oct. 23, 2013). The Bureau received comments in response to the IFR that it took into account in developing the proposed rule and sample forms for consumers in bankruptcy.

[10] 79 FR 65300, 65304 (Nov. 3, 2014).

[11] 79 FR 74176 (Dec. 15, 2014).

[12] The discussion of the relevant portions of the proposed rule pertaining to the bankruptcy periodic statements are available at 79 FR 74176, 74256–66 (Dec. 15, 2014).

[13] 79 FR 74176, 74267 and 74300–02 (Dec. 15, 2014).

[14] 79 FR 74175, 74266 (Dec. 15, 2014).

[15] *See* Consumer Fin. Prot. Bureau, CFPB Bulletin 11–3, *CFPB Policy on Ex Parte Presentations in Rulemaking Proceedings* (Aug. 16, 2011), *available at http://files.consumerfinance.gov/f/2011/08/Bulletin_20110819_ExPartePresentationsRulemakingProceedings.pdf.* Materials pertaining to these presentations are filed in the record and are publicly available at *http://www.regulations.gov.*

[16] Summaries of the Bureau's outreach are filed in the record and are publicly available at http://www.regulations.gov.

[17] Fors Marsh Group, *Testing of Bankruptcy Periodic Statement Forms for Mortgage Servicing* (Feb. 2016), *available at http://www.consumerfinance.gov/reports* (report on consumer testing submitted to the CFPB).

Dated: April 21, 2016.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2016–09695 Filed 4–25–16; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0131]

RIN 1625–AA00

Safety Zone, Shallowbag Bay; Manteo, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone on the navigable waters of Shallowbag Bay, in Manteo, NC. This proposed safety zone would restrict vessel movement from a portion of Shallowbag Bay River during the Manteo July 4th Celebration Fireworks display. This action is necessary for the safety of life and property on the surrounding navigable waters during the fireworks display. The Coast Guard invites comments on this proposed rule.

DATES: Comments and related material must be received by the Coast Guard on or before May 11, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0131 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LCDR Derek J. Burrill, Coast Guard Sector North Carolina, Coast Guard; telephone (910) 772–2230, email *Derek.J.Burrill@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

On July 4, 2016 fireworks will be launched from a barge located in Shallowbag Bay in Manteo, North Carolina as part of the Manteo July 4th Celebration. The Captain of the Port North Carolina (COTP) proposes to establish a temporary safety zone on specified waters of Shallowbag Bay within a 200 yard radius of a barge anchor. This safety zone would be effective and enforced from 9:00 p.m. to 10:30 p.m. on July 4, 2016 with a rain date of July 5, 2016. Access to the safety zone would be restricted during the specified date and time.

The purpose of this temporary safety zone is to ensure the safety of vessels and spectators from hazards associated with the fireworks display, such as accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris.

The legal basis for the rule is the Coast Guard's authority to establish safety zones: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone from 9:00 p.m. to 10:30 p.m. on July 4, 2016 with a rain date being July 5, 2016. The safety zone would cover all navigable waters within 200 yards of barge anchor. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 9:30 to 10:00 p.m. fireworks display. All persons and vessels would need to comply with the instructions of the COTP or his designated representative. Except for vessels authorized by the COTP or his designated representative, no person or vessel would be allowed to enter or remain in the safety zone. Notification of the temporary safety zone would be provided to the public via marine information broadcasts.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic would be able to safely transit around this safety zone which would impact a small designated area of Shallowbag Bay, Manteo, North Carolina for less than 1 hour. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION**

CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves: A safety zone lasting less than 2 hours that would prohibit entry within 200 yards of a fireworks barge. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov*. If your material cannot be submitted using *http://www.regulations.gov*, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05–0437 to read as follows:

§ 165.T05–0437 Safety Zone, Shallowbag Bay; Manteo, NC.

(a) Definitions. For the purposes of this section, "Captain of the Port" means the Commander, Sector North Carolina. "Representative" means any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) Location. The following area is a safety zone: All waters on Shallowbag Bay within a 200 yard radius of a barge anchor in position 35°54′31″ N., longitude 075°39′46″ W. (NAD 1983).

(c) Regulations. (1) The general regulations contained in § 165.23 of this part apply to the area described in paragraph (b) of this section.

(2) Persons or vessels requesting entry into or passage through any portion of the safety zone must first request authorization from the Captain of the Port, or a designated representative. The Captain of the Port or his designated representative can be contacted at telephone number (910) 343–3882 or by radio on VHF Marine Band Radio, channels 13 and 16.

(d) Enforcement. The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(e) Enforcement period. This section will be enforced from 9:00 p.m. to 10:30 p.m. on July 4, 2016 or a rain date of July 5, 2016 unless cancelled earlier by the Captain of the Port.

Dated: April 7, 2016.

J.S. Dufresne,

Captain, U.S. Coast Guard, Captain of the Port North Carolina.

[FR Doc. 2016–09677 Filed 4–25–16; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Chapter III

[Docket No. 15–CRB–0010–CA]

Adjustment of Cable Statutory License Royalty Rates

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Proposed rule.

SUMMARY: The Copyright Royalty Judges (Judges) publish for comment proposed regulations governing royalty rates and terms for the distant retransmission of over-the-air television and radio broadcast stations by cable television systems to their subscribers.

DATES: Comments are due no later than May 17, 2016.

ADDRESSES: Submit electronic comments via email to *crb@loc.gov* or online at *http://www.regulations.gov.* Those who choose not to submit comments electronically should see How to Submit Comments in the **SUPPLEMENTARY INFORMATION** section below for physical addresses and further instructions. The proposed rule is also posted on the agency's Web site (*www.loc.gov/crb*).

FOR FURTHER INFORMATION CONTACT: Kimberly Whittle, Attorney Advisor, by telephone at (202) 707–7658, or by email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION:

Background

On January 15, 2016, the Copyright Royalty Judges (Judges) received a motion from the National Cable & Telecommunications Association, the American Cable Association, and a group referring to itself as the "Phase I Parties" requesting that the Judges adopt a partial settlement of the movants' interests regarding royalty rates and terms for the statutory copyright license for eligible cable retransmissions for the period 2015–2019. The settlement proposes that the rates, terms, and gross receipts limitations remain the same as those currently in effect. *See* 17 U.S.C. 111(d)(1)(B) and 37 CFR 256.2(c)–(d). Motion of the Participating Parties to Adopt Partial Settlement, Docket No. 15–CRB–0010–CA (2015–2019) (Motion). The Judges hereby publish proposed regulations reflecting the proposed settlement and request comments from interested parties as required by 17 U.S.C. 801(b)(7)(A).

Section 111 of the Copyright Act grants a statutory copyright license to cable television systems for the distant retransmission of over-the-air television and radio broadcast stations to their subscribers. 17 U.S.C. 111(c). In exchange for the license, cable operators submit to the Copyright Office semiannually royalty payments and statements of account detailing their retransmissions. 17 U.S.C. 111(d)(1). The Copyright Office deposits the royalties into the United States Treasury for later distribution to copyright owners of the broadcast programming that the cable systems retransmit. 17 U.S.C. 111(d)(2).

A cable system calculates its royalty payments in accordance with the statutory formula described in 17 U.S.C. 111(d)(1). Royalty rates are based upon a cable system's gross receipts from subscribers who receive retransmitted broadcast signals. For rate calculation purposes, cable systems are divided into three tiers based on their gross receipts (small, medium, and large). 17 U.S.C. 111(d)(1)(B) through (F). Both the applicable rates and the tiers are subject to adjustment. 17 U.S.C. 801(b)(2).

Every five years persons with a significant interest in the royalty rates may file petitions to initiate a proceeding to adjust the rates. 17 U.S.C. 804(a) and (b). No person with a significant interest filed a petition to initiate a proceeding in 2015.[1] Therefore, the Judges initiated this rate adjustment proceeding by notice published in the **Federal Register** in June 2015. *See* 17 U.S.C. 801(b)(2), 803(b)(1), 804(a) and (b); 80 FR 35403 (Jun. 19, 2015).

The Judges received two joint Petitions to Participate, one from the National Cable & Telecommunications Association and the American Cable Association and another from a group referring to itself as the "Phase I Parties".[2] The Judges accepted these petitions and commenced a Voluntary Negotiation Period (VNP).

On December 15, 2015, at the conclusion of the VNP, all participants notified the Judges that they had settled and asked that cable retransmission rates remain unchanged for the rate period 2015 to 2019, inclusive. On November 23, 2015, however, one of the participants, the Joint Sports Claimants (JSC),[3] had filed a "Petition . . . to Initiate Cable Royalty Rate Adjustment Proceedings" with a self-styled caption indicating a proceeding for cable rate adjustments "for Retransmission of Certain Sports Telecasts." Given the seemingly conflicting positions of the JSC, the Judges rejected the settlement, without prejudice.

The settling participants have now asked that the Judges adopt the settlement and permit continuing proceedings to determine whether and to what degree to make a rate adjustment under section 801(b)(2)(C). Motion at 1, 6–7. Section 801(b)(2)(C) provides for adjustment proceedings[4] in the event the Federal Communications Commission (FCC) changes its rule "with respect to . . . sports program exclusivity. . . ." The JSC base their November 23, 2015 petition on an FCC rule change, *viz.,* repeal of the sports exclusivity rules, effective November 24, 2014.[5] The Judges announce

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[1] The cable rates were last adjusted in 2005, at a time when the Copyright Office was transferring responsibility for royalty rate proceedings from Copyright Arbitration Royalty Panels (CARP) to the newly authorized Copyright Royalty Judges. Although the Judges commenced a rate proceeding relating to the 2010 rate adjustment, the Judges terminated it when passage of the Satellite Television Extension and Localism Act of 2010, Public Law 111–151, 124 Stat. 1027 ("2010 STELA"), rendered the proceeding unnecessary. *See* Order Granting Request to Terminate Proceeding, Docket No. 2010–1 CRB Cable Rate (July 13, 2010). At that time, although the act changed the relevant rates, neither the Register of Copyrights nor the Judges updated the statement of the prior rates in subsections (a) and (b) of section 256 of 37 CFR, the chapter of the Regulations applying to CARP. The STELA Reauthorization Act of 2014 did not change the cable royalty rates in § 111. *See* Public Law 113–200, 28 Stat. 2059 (Dec. 4, 2014).

[2] The Phase I Parties consist of Program Suppliers, Joint Sports Claimants, Public Television Claimants, Commercial Television Claimants, Music Claimants, Canadian Claimants Group, National Public Radio, and Devotional Claimants.

[3] Joint Sports Claimants are: The National Basketball Association, the National Collegiate Athletic Association, the National Football League, the National Hockey League, the Office of the Commissioner of Baseball, and the Women's National Basketball Association.

[4] Apart from the quinquennial proceedings required by § 804 of the Act.

[5] Petition of the Joint Sports Claimants to Initiate Cable Royalty Rate Adjustment Proceedings (Nov. 23, 2015). In its petition, JSC requests that the Judges "initiate proceedings to adjust the cable statutory license royalty rates 'to assure that such rates are reasonable in light of' the repeal of the Sports Blackout Rules." Petition at 1. In its Motion to Adopt Partial Settlement, the self-styled "Participating Parties," which includes JSC, states that "[t]he Joint Sports Rule Petition requests a new Section 111 royalty rate pursuant to 17 U.S.C. 801(b)(2)(C) to account for the November 2014 elimination of the [FCC's] Sports Rule (a "Sports Rule Surcharge"). Motion at 1–2. According to the Motion, "[n]either the Judges nor their predecessors have previously conducted any proceeding under Section 801(b)(2)(C) to consider the adoption of a cable rate to account for changes in the FCC Sports Rule," although Section 801(b)(2)(C) has been invoked twice since its enactment with respect to

Continued

commencement of further proceedings on the issue raised by that petition in a separate notice in the **Federal Register**.

> The Participating Parties state that they do not believe that the JSC Sports Rule Petition precludes adoption of their agreement as set forth in the Dec. 15 Settlement Notice. That agreement concerns only the Quinquennial Cable Rate Adjustments. It resolves all issues concerning those quinquennial adjustments by agreeing to retain without change the *existing* cable royalty rates (the base rates, 3.75 percent rate and the Syndicated Exclusivity Surcharge) and *existing* gross receipts limitations during the years 2015–19. It simply does not address the issue of whether the Judges should make any changes in cable rates pursuant to 17 U.S.C. 801(b)(2)(B) & (C) to account for changes in FCC cable rules.

Motion at 5–6 (emphasis original).

Statutory Timing of Adoption of Rates and Terms

Section 801(b)(7)(A) allows for the adoption of rates and terms negotiated by "some or all of the participants in a proceeding at any time during the proceeding" provided the parties submit the negotiated rates and terms to the Judges for approval. That provision directs the Judges to provide those who would be bound by the negotiated rates and terms an opportunity to comment on the agreement. Unless a participant in a proceeding objects and the Judges conclude that the agreement does not provide a reasonable basis for setting statutory rates or terms, the Judges adopt the negotiated rates and terms. 17 U.S.C. 801(b)(7)(A).

If the Judges adopt the proposed rates and terms pursuant to this provision for the 2015–2019 rate period, the adopted (and thus, existing) rates and terms and gross receipts limitations will continue to be binding on all cable systems that retransmit distantly over-the-air television and radio broadcast stations to their subscribers and on all copyright owners of the broadcast programming that the cable systems retransmit during the license period 2015–2019, except to the extent those rates and terms may be adjusted for sports programming in the portion of the proceeding focused on the effect, if any, of the FCC Sports Exclusivity Rule change.

Proposed Adjustments to Rates and Terms

If the Judges adopt the proposed rules that include the terms of the settlement, these rules shall take effect upon final adoption. The Judges have statutory authority to promulgate their own rules which, when adopted, shall render inapplicable the prior rules that pertained to the rates and terms as established by the now defunct CARP, in part 256 of the existing regulation (37 CFR, part 256).

The Judges will update the terms, eliminate surplus verbiage, make the rules easier to read, and codify them in Chapter 3 of Title 37 of the CFR. Chapter 3 is the chapter that governs Copyright Royalty Board proceedings. If adopted, the proposed rules shall be designated "part 387."

Interested parties may comment and object to any or all of the proposed regulations contained in this notice. Such comments and objections must be submitted no later than May 17, 2016.

How To Submit Comments

Interested members of the public must submit comments to only one of the following addresses. If not commenting by email or online, commenters must submit an original of their comments, five paper copies, and an electronic version on a CD.

Email: crb@loc.gov; or

Online: http://www.regulations.gov; or

U.S. mail: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or

Overnight service (only USPS Express Mail is acceptable): Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or

Commercial courier: Address package to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM–403, 101 Independence Avenue SE., Washington, DC 20559–6000. Deliver to: Congressional Courier Acceptance Site, 2nd Street NE., and D Street NE., Washington, DC; or

Hand delivery: Library of Congress, James Madison Memorial Building, LM–401, 101 Independence Avenue SE., Washington, DC 20559–6000.

List of Subjects in 37 CFR Part 387

Copyright, Cable Television, Royalties.

Proposed Regulations

For the reasons set forth in the preamble, and under the authority of chapter 8, title 17, United States Code, the Copyright Royalty Judges propose to amend 37 CFR Chapter III as follows:

Add a new Part 387.

PART 387—ADJUSTMENT OF ROYALTY FEE FOR CABLE COMPULSORY LICENSE

Sec.
387.1 General
387.2 Royalty fee for compulsory license for secondary transmission by cable systems.

Authority: 17 U.S.C. 801(b)(2), 803(b)(6).

§ 387.1 General.

This part establishes adjusted terms and rates for royalty payments in accordance with the provisions of 17 U.S.C. 111 and 801(b)(2)(A), (B), (C), and (D). Upon compliance with 17 U.S.C. 111 and the terms and rates of this part, a cable system entity may engage in the activities set forth in 17 U.S.C. 111.

§ 387.2 Royalty fee for compulsory license for secondary transmission by cable systems.

(a) Royalty fee rates. Commencing with the first semiannual accounting period of 2015 and for each semiannual accounting period thereafter, the royalty fee rates for secondary transmission by cable systems are those established by 17 U.S.C. 111(d)(1)(B)(i)–(iv), as amended.

(b) Alternate tiered rates. Commencing with the first semiannual accounting period of 2015 and for each semiannual accounting period thereafter, the alternate tiered royalty fee rates for cable systems with certain levels of gross receipts as described in 17 U.S.C. 111(d)(1) (E) and (F), are those described therein.

(c) 3.75 percent rate. Commencing with the first semiannual accounting period of 2015, and for each semiannual accounting period thereafter, and notwithstanding paragraphs (a) and (d) of this section, for each distant signal equivalent or fraction thereof not represented by the carriage of:

(1) Any signal that was permitted (or, in the case of cable systems commencing operations after June 24, 1981, that would have been permitted) under the rules and regulations of the Federal Communications Commission in effect on June 24, 1981, or

(2) A signal of the same type (that is, independent, network, or non-commercial educational) substituted for such permitted signal, or

(3) A signal that was carried pursuant to an individual waiver of the rules and regulations of the Federal Communications Commissioning effect on June 24, 1981; in lieu of the royalty rates specified in paragraphs (a) and (d) of this section, the royalty rate shall be 3.75 percent of the gross receipts of the cable system for each distant signal equivalent. Any fraction of a distant signal equivalent shall be computed at its fractional value.

(d) Syndicated exclusivity surcharge. Commencing with the first semiannual accounting period of 2015 and for each semiannual accounting period thereafter, in the case of a cable system

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the syndicated exclusivity provision of the section. Motion at 2, n.2.

located outside the 35-mile specified zone of a commercial VHF station that places a predicted Grade B contour, in whole or in part, over the cable system, and that is not significantly viewed or otherwise exempt from the FCC's syndicated exclusivity rules in effect on June 24, 1981, for each distant signal equivalent or fraction thereof represented by the carriage of such commercial VHF station, the royalty rate shall be, in addition to the amount specified in paragraph (a) of this section,

(1) For cable systems located wholly or in part within a top 50 television market,

(i) 0.599 percent of such gross receipts for the first distant signal equivalent;

(ii) 0.377 percent of such gross receipts for each of the second, third, and fourth distant signal equivalents; and

(iii) 0.178 percent of such gross receipts for the fifth distant signal equivalent and each additional distant signal equivalent thereafter;

(2) For cable systems located wholly or in part within a second 50 television market,

(i) 0.300 percent of such gross receipts for the first distant signal equivalent;

(ii) 0.189 percent of such gross receipts for each of the second, third, and fourth distant signal equivalents; and

(iii) 0.089 percent of such gross receipts for the fifth distant signal equivalent and each additional distant signal equivalent thereafter;

(3) For purposes of this section "top 50 television markets" and "second 50 television markets" shall be defined as the comparable terms are defined or interpreted in accordance with 47 CFR 76.51, as effective June 24, 1981.

(e) Computation of rates. Computation of royalty fees shall be governed by 17 U.S.C. 111(d)(1)(C).

Dated: April 20, 2016.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2016–09626 Filed 4–25–16; 8:45 am]

BILLING CODE 1410–72–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2013–0561, FRL–9945–57–Region 8]

Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2008 Lead, 2008 Ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ National Ambient Air Quality Standards; Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of State Implementation Plan (SIP) revisions from the State of Utah to demonstrate the State meets infrastructure requirements of the Clean Air Act (Act or CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated for ozone on March 12, 2008, lead (Pb) on October 15, 2008, nitrogen dioxide (NO_2) on January 22, 2010, sulfur dioxide (SO_2) on June 2, 2010 and fine particulate matter ($PM_{2.5}$) on December 14, 2012. The EPA is also proposing to approve SIP revisions the State submitted regarding state boards. Section 110(a) of the CAA requires that each state submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by the EPA.

DATES: Written comments must be received on or before May 26, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2013–0561 at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Abby Fulton, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6563, *fulton.abby@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

What should I consider as I prepare my comments for the EPA?

1. *Submitting Confidential Business Information (CBI).* Do not submit CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD ROM that you mail to the EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** volume, date, and page number);
- Follow directions and organize your comments;
- Explain why you agree or disagree;
- Suggest alternatives and substitute language for your requested changes;
- Describe any assumptions and provide any technical information and/or data that you used;
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced;
- Provide specific examples to illustrate your concerns, and suggest alternatives;
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats; and,
- Make sure to submit your comments by the comment period deadline identified.

II. Background

On March 12, 2008, the EPA promulgated a new NAAQS for ozone, revising the levels of the primary and secondary 8-hour ozone standards from 0.08 parts per million (ppm) to 0.075 ppm (73 FR 16436, March 27, 2008). Subsequently, on October 15, 2008, the EPA revised the level of the primary and secondary Pb NAAQS from 1.5 micrograms per cubic meter (μg/m³) to 0.15 μg/m³ (73 FR 66964, Nov. 12, 2008). On January 22, 2010, the EPA promulgated a new 1-hour primary NAAQS for NO_2 at a level of 100 parts per billion (ppb) while retaining the annual standard of 53 ppb. The 2010 NO_2 NAAQS is expressed as the three-year average of the 98th percentile of the annual distribution of daily maximum one-hour average concentrations. The secondary NO_2 NAAQS remains unchanged at 53 ppb (75 FR 6474, Feb. 9, 2010). On June 2, 2010, the EPA promulgated a revised primary SO_2 standard at 75 ppb, based on a three-year average of the annual 99th percentile of one-hour daily maximum concentrations (75 FR 35520, June 22, 2010). Finally, on December 14, 2012, the EPA promulgated a revised annual $PM_{2.5}$ standard by lowering the level to 12.0 μg/m³ and retaining the 24-hour $PM_{2.5}$ standard at a level of 35 μg/m³ (78 FR 3086, Jan. 15, 2013).

Under sections 110(a)(1) and (2) of the CAA, states are required to submit infrastructure SIPs to ensure their SIPs provide for implementation, maintenance and enforcement of the NAAQS. These submissions must contain any revisions needed for meeting the applicable SIP requirements of section 110(a)(2), or certifications that their existing SIPs for $PM_{2.5}$, ozone, Pb, NO_2, and SO_2 already meet those requirements. The EPA highlighted this statutory requirement in an October 2, 2007, guidance document entitled "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards" (2007 Memo). On September 25, 2009, the EPA issued an additional guidance document pertaining to the 2006 $PM_{2.5}$ NAAQS entitled "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS)" (2009 Memo), followed by the October 14, 2011, "Guidance on Infrastructure SIP Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS)" (2011 Memo). Most recently, the EPA issued "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)" on September 13, 2013 (2013 Memo).

III. What is the scope of this rulemaking?

The EPA is acting upon the SIP submissions from Utah that address the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2008 ozone, 2008 Pb, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions "within three years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof)," and these SIP submissions are to provide for the "implementation, maintenance, and enforcement" of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon the EPA taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that "[e]ach such plan" submission must address.

The EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as "infrastructure SIP" submissions. Although the term "infrastructure SIP" does not appear in the CAA, the EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as "nonattainment SIP" or "attainment plan SIP" submissions to address the nonattainment planning requirements of part D of title I of the CAA; "regional haze SIP" submissions required by the EPA rule to address the visibility protection requirements of CAA section 169A; and nonattainment new source review (NSR) permit program submissions to address the permit requirements of CAA, title I, part D.

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions, and section 110(a)(2) provides more details concerning the required contents of these submissions. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[1] The EPA therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, the EPA believes that the list of required elements for infrastructure SIP submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

Examples of some of these ambiguities and the context in which the EPA interprets the ambiguous portions of section 110(a)(1) and 110(a)(2) are discussed at length in our notice of proposed rulemaking: Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 1997 and 2006 $PM_{2.5}$, 2008 Lead, 2008 Ozone, and 2010 NO_2 National Ambient Air Quality Standards; South Dakota (79 FR 71040, Dec. 1, 2014) under "III. What is the Scope of this Rulemaking?"

With respect to certain other issues, the EPA does not believe that an action on a state's infrastructure SIP submission is necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP. These issues include: (i) Existing provisions related to excess emissions from sources during periods of startup, shutdown, or malfunction (SSM) that may be contrary to the CAA and the EPA's policies addressing such excess emissions; (ii) existing provisions related to "director's variance" or "director's discretion" that may be contrary to the CAA because they purport to allow revisions to SIP-approved emissions limits while limiting public process or not requiring further approval by the EPA; and (iii) existing provisions for Prevention of Significant Deterioration (PSD) programs that may be inconsistent with current requirements of the EPA's "Final NSR Improvement Rule," 67 FR 80186, Dec. 31, 2002, as amended by 72 FR 32526, June 13, 2007 ("NSR Reform").

IV. What infrastructure elements are required under sections 110(a)(1) and (2)?

CAA section 110(a)(1) provides the procedural and timing requirements for

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[1] For example: Section 110(a)(2)(E)(i) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a SIP-approved program to address certain sources as required by part C of title I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

SIP submissions after a new or revised NAAQS is promulgated. Section 110(a)(2) lists specific elements the SIP must contain or satisfy. These infrastructure elements include requirements such as modeling, monitoring, and emissions inventories, which are designed to assure attainment and maintenance of the NAAQS. The elements that are the subject of this action are listed below.

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.
- 110(a)(2)(D): Interstate transport.
- 110(a)(2)(E): Adequate resources and authority, conflict of interest, and oversight of local governments and regional agencies.
- 110(a)(2)(F): Stationary source monitoring and reporting.
- 110(a)(2)(G): Emergency powers.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

A detailed discussion of each of these elements is contained in the next section.

Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) and are therefore not addressed in this action. These elements relate to part D of Title I of the CAA, and submissions to satisfy them are not due within three years after promulgation of a new or revised NAAQS, but rather are due at the same time nonattainment area plan requirements are due under section 172. The two elements are: (1) Section 110(a)(2)(C) to the extent it refers to permit programs (known as "nonattainment NSR") required under part D, and (2) section 110(a)(2)(I), pertaining to the nonattainment planning requirements of part D. As a result, this action does not address infrastructure elements related to the nonattainment NSR portion of section 110(a)(2)(C) or related to 110(a)(2)(I). Furthermore, the EPA interprets the CAA section 110(a)(2)(J) provision on visibility as not being triggered by a new NAAQS because the visibility requirements in part C, title 1 of the CAA are not changed by a new NAAQS.

V. How did Utah address the infrastructure elements of sections 110(a)(1) and (2)?

The Utah Department of Environmental Quality (Department or UDEQ) submitted certification of Utah's infrastructure SIP for the 2008 Pb NAAQS on January 19, 2012; 2008 ozone NAAQS on January 31, 2013; 2010 NO_2 NAAQS on January 31, 2013; 2010 SO_2 NAAQS on June 2, 2013; and 2012 $PM_{2.5}$ on December 4, 2015. Utah's infrastructure certifications demonstrate how the State, where applicable, has plans in place that meet the requirements of section 110 for the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS. These plans reference the Utah Code Annotated (UCA), Utah Administrative Code (UAC) rules, and the Utah SIP. These submittals are available within the electronic docket for today's proposed action at *www.regulations.gov*. The UCA, UAC, and the Utah SIP referenced in the submittals are publicly available at *http://le.utah.gov/xcode/code.html*, *http://www.rules.utah.gov/publicat/code/r307/r307-110.htm* and *http://www.deq.utah.gov/Laws_Rules/daq/sip/index.htm*. Air pollution control regulations and statutes that have been previously approved by the EPA and incorporated into the Utah SIP can be found at 40 CFR 52.2320.

VI. Analysis of the State Submittals

1. Emission limits and other control measures: Section 110(a)(2)(A) requires SIPs to include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance as may be necessary or appropriate to meet the applicable requirements of this Act.

The State's submissions for the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ infrastructure requirements cite SIP Section I (*Legal Authority*) which allows the adoption of emission standards and other limits necessary for attainment and maintenance of national ambient air quality standards. SIP Section I (*Legal Authority*), in combination with other specific control measures adopted by the Utah Air Quality Board (AQB) and multiple SIP-approved state air quality regulations within the UAC and cited in Utah's certifications, provide enforceable emission limitations and other control measures, means of techniques, schedules for compliance, and other related matters necessary to meet the requirements of the CAA section 110(a)(2)(A) for the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS, subject to the following clarifications.

First, this infrastructure element does not require the submittal of regulations or emission limitations developed specifically for attaining the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS. Utah's certifications (contained within this docket) generally list provisions and enforceable control measures within its SIP which regulate pollutants through various programs. This includes its stationary source permit program which requires sources to demonstrate that emissions will not cause or contribute to a violation of any NAAQS. This suffices, in the case of Utah, to meet the requirements of section 110(a)(2)(A) for the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS.

Second, as previously discussed, the EPA is not proposing to approve or disapprove any existing state rules with regard to director's discretion or variance provisions. A number of states, including Utah, have such provisions which are contrary to the CAA and existing EPA guidance (52 FR 45109, Nov. 24, 1987), and the agency plans to take action in the future to address such state regulations. In the meantime, the EPA encourages any state having a director's discretion or variance provision which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

Finally, in this action, the EPA is also not proposing to approve or disapprove any existing state provision with regard to excess emissions during SSM of operations at a facility. A number of states, including Utah, have SSM provisions which are contrary to the CAA and existing EPA guidance[2] and the agency is addressing such state regulations separately (80 FR 33840, June 12, 2015).

Therefore, the EPA is proposing to approve Utah's infrastructure SIP for the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS with respect to the general requirement in section 110(a)(2)(A) to include enforceable emission limitations and other control measures, means, or techniques to meet the applicable requirements of this element.

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[2] Steven Herman, Assistant Administrator for Enforcement and Compliance Assurance, and Robert Perciasepe, Assistant Administrator for Air and Radiation, Memorandum to the EPA Air Division Directors, "State Implementation Plans (SIPs): Policy Regarding Emissions During Malfunctions, Startup, and Shutdown." (September 20, 1999).

2. Ambient air quality monitoring/data system: Section 110(a)(2)(B) requires SIPs to "provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary" to "(i) monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator."

The State's submissions cite UAC rule R307–110–5, which incorporates by reference SIP Section IV (*Ambient Air Monitoring Program*), and provides a brief description of the purposes of the air monitoring program approved by the EPA in the early 1980s and most recently on June 25, 2003 (68 FR 37744). Utah's annual monitoring network plan (AMNP), is made available by the Department for public review and comment prior to submission to the EPA.

In this action, the EPA is acting only on Utah's submittal for 2008 ozone NAAQS for CAA section 110(a)(2)(B). Utah's submittals for other pollutants will be addressed in a separate rulemaking action.

Utah's 2013 AMNP for ozone was approved through a letter dated December 24, 2013 (available within the docket). Additionally, the State of Utah submits ozone data to the EPA's Air Quality System database in accordance with 40 CFR 58.16.

We find that Utah's SIP and practices are adequate for the ambient air quality monitoring and data system requirements and therefore propose to approve the infrastructure SIP for the 2008 ozone NAAQS for this element.

3. Program for enforcement of control measures: Section 110(a)(2)(C) requires SIPs to "include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that [NAAQS] are achieved, including a permit program as required in parts C and D."

To generally meet the requirements of section 110(a)(2)(C), the State is required to have SIP-approved PSD, nonattainment NSR, and minor NSR permitting programs that are adequate to implement the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS. As explained elsewhere in this action, the EPA is not evaluating nonattainment related provisions, such as the nonattainment NSR program required by part D of the Act. The EPA is evaluating the State's PSD program as required by part C of the Act, and the State's minor NSR program as required by 110(a)(2)(C).

Enforcement of Control Measures Requirement

The State's submissions for the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ infrastructure requirements cite SIP Section I (*Legal Authority*) which allows for enforcement of applicable laws, regulations, and standards and to seek injunctive relief, and also provides authority to prevent construction, modification, or operation of any stationary source at any location where emissions from such source will prevent the attainment or maintenance of a national standard or interfere with prevention of significant deterioration requirements.

PSD Requirements

With respect to Elements (C) and (J), the EPA interprets the CAA to require each state to make an infrastructure SIP submission for a new or revised NAAQS demonstrating that the air agency has a complete PSD permitting program meeting the current requirements for all regulated NSR pollutants. The requirements of Element D(i)(II) may also be satisfied by demonstrating the air agency has a complete PSD permitting program that correctly addresses all regulated NSR pollutants. Utah has shown that it currently has a PSD program in place that covers all regulated NSR pollutants, including greenhouse gases (GHGs). SIP Section VIII (*Prevention of Significant Deterioration*) applies to all air pollutants regulated under the CAA.

Utah implements the PSD program by, for the most part, incorporating by reference the federal PSD program as it existed on a specific date. The State periodically updates the PSD program by revising the date of incorporation by reference and submitting the change as a SIP revision. On October 25, 2013 (78 FR 63883), we approved portions of a Utah SIP revision that revised the date of incorporation by reference of the federal PSD program to July 1, 2011. As a result, the SIP revisions generally reflect changes to PSD requirements that the EPA has promulgated prior to the revised date of incorporation by reference.

On July 15, 2011 (76 FR 41712), we approved portions of a Utah SIP revision that revised the date of incorporation by reference of the federal PSD program. That revision addressed the PSD requirements of the Phase 2 Ozone Implementation Rule promulgated in 2005 (70 FR 71612). As a result, the approved Utah PSD program meets current requirements for ozone.

On June 23, 2014, the United States Supreme Court addressed the application of PSD permitting requirements to GHG emissions. *Utility Air Regulatory Group* v. *Environmental Protection Agency,* 134 S.Ct. 2427. The Supreme Court held that the EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD permit. The Court also held that the EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs (anyway sources) contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT).

In accordance with the Supreme Court decision, on April 10, 2015, the U.S. Court of Appeals for the District of Columbia Circuit (the DC Circuit) issued an amended judgment vacating the regulations that implemented Step 2 of the EPA's PSD and Title V Greenhouse Gas Tailoring Rule, but not the regulations that implement Step 1 of that rule. Step 1 of the Tailoring Rule covers sources that are required to obtain a PSD permit based on emissions of pollutants other than GHGs. Step 2 applied to sources that emitted only GHGs above the thresholds triggering the requirement to obtain a PSD permit. The amended judgment preserves, without the need for additional rulemaking by the EPA, the application of the BACT requirement to GHG emissions from Step 1 or "anyway" sources.[3] With respect to Step 2 sources, the DC Circuit's amended judgment vacated the regulations at issue in the litigation, including 40 CFR 51.166(b)(48)(v), "to the extent they require a stationary source to obtain a PSD permit if greenhouse gases are the only pollutant (i) that the source emits or has the potential to emit above the applicable major source thresholds, or (ii) for which there is a significant emission increase from a modification."

The EPA is planning to take additional steps to revise the federal PSD rules in light of the Supreme Court and subsequent DC Circuit opinions. Some states have begun to revise their existing SIP-approved PSD programs in light of these court decisions, and some states may prefer not to initiate this process until they have more information about the planned revisions to the EPA's PSD regulations. The EPA is not expecting states to have revised their PSD programs in anticipation of the EPA's planned actions to revise its

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[3] *See* 77 FR 41066 (July 12, 2012) rulemaking for definition of "anyway" sources.

PSD program rules in response to the court decisions.

At present, the EPA has determined Utah's SIP is sufficient to satisfy Elements (C), (D)(i)(II) element 3, and (J) with respect to GHGs. This is because the PSD permitting program previously approved by the EPA into the SIP continues to require that PSD permits issued to "anyway sources" contain limitations on GHG emissions based on the application of BACT. The EPA most recently approved revisions to Utah's PSD program on February 6, 2014 (79 FR 7070). The approved Utah PSD permitting program still contains some provisions regarding Step 2 sources that are no longer necessary in light of the Supreme Court decision and DC Circuit amended judgment. Nevertheless, the presence of these provisions in the previously-approved plan does not render the infrastructure SIP submission inadequate to satisfy Elements (C), (D)(i)(II), and (J). The SIP contains the PSD requirements for applying the BACT requirement to greenhouse gas emissions from "anyway sources" that are necessary at this time. The application of those requirements is not impeded by the presence of other previously-approved provisions regarding the permitting of Step 2 sources. Accordingly, the Supreme Court decision and subsequent DC Circuit judgment do not prevent the EPA's approval of Utah's infrastructure SIP as to the requirements of Elements (C), (D)(i)(II) and (J).

Finally, we evaluate the PSD program with respect to current requirements for $PM_{2.5}$. In particular, on May 16, 2008, the EPA promulgated the rule, "Implementation of the New Source Review Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)" (73 FR 28321). On October 20, 2010 the EPA promulgated the rule, "Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)" (75 FR 64864). The EPA regards adoption of these $PM_{2.5}$ rules as a necessary requirement when assessing a PSD program for the purposes of element (C).

On January 4, 2013, the U.S. Court of Appeals, in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir.), issued a judgment that remanded the EPA's 2007 and 2008 rules implementing the 1997 $PM_{2.5}$ NAAQS. The court ordered the EPA to "repromulgate these rules pursuant to Subpart 4 consistent with this opinion." *Id.* at 437. Subpart 4 of part D, Title 1 of the CAA establishes additional provisions for particulate matter nonattainment areas.

The 2008 Implementation rule addressed by *Natural Resources Defense Council,* "Implementation of New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)," (73 FR 28321, May 16, 2008), promulgated NSR requirements for implementation of $PM_{2.5}$ in nonattainment areas (nonattainment NSR) and attainment/unclassifiable areas (PSD). As the requirements of Subpart 4 only pertain to nonattainment areas, the EPA does not consider the portions of the 2008 Implementation rule that address requirements for $PM_{2.5}$ attainment and unclassifiable areas to be affected by the court's opinion. Moreover, the EPA does not anticipate the need to revise any PSD requirements promulgated in the 2008 Implementation rule in order to comply with the court's decision. Accordingly, the EPA's proposed approval of Utah's infrastructure SIP as to elements C or J with respect to the PSD requirements promulgated by the 2008 Implementation rule does not conflict with the court's opinion.

The court's decision with respect to the nonattainment NSR requirements promulgated by the 2008 Implementation rule also does not affect the EPA's action on the present infrastructure action. The EPA interprets the Act to exclude nonattainment area requirements, including requirements associated with a nonattainment NSR program, from infrastructure SIP submissions due three years after adoption or revision of a NAAQS. Instead, these elements are typically referred to as nonattainment SIP or attainment plan elements, which would be due by the dates statutorily prescribed under subpart 2 through 5 under part D, extending as far as 10 years following designations for some elements.

The second PSD requirement for $PM_{2.5}$ is contained in the EPA's October 20, 2010 rule, "Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)" (75 FR 64864). The EPA regards adoption of the $PM_{2.5}$ increments as a necessary requirement when assessing a PSD program for the purposes of element (C).

On March 14, 2012, Utah submitted revisions to the PSD program that adopt by reference federal provisions of 40 CFR part 52, section 21, as they existed on July 1, 2011. As that date is after the effective date of the two rules, the submission incorporates those requirements. The EPA approved the necessary portions of Utah's March 14, 2012 submission on October 25, 2013 (78 FR 63883). Utah's SIP-approved PSD program meets current requirements for $PM_{2.5}$. The EPA therefore is proposing to approve Utah's SIP for the 2008 ozone, 2008 Pb, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS with respect to the requirement in section 110(a)(2)(C) to include a permit program in the SIP as required by part C of the Act.

Minor NSR

The State has a SIP-approved minor NSR program, adopted under section 110(a)(2)(C) of the Act. The minor NSR program is found in section II of the Utah SIP, and was approved by the EPA as section 2 of the SIP (68 FR 37744, June 25, 2003). Since approval of the minor NSR program, the State and the EPA have relied on the program to assure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the NAAQS. Utah's minor NSR program, as approved into the SIP, covers the construction and modification of stationary sources of regulated NSR pollutants, including $PM_{2.5}$, lead, and ozone and its precursors.

The EPA is proposing to approve Utah's infrastructure SIP for the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the enforcement, modification, and construction of any stationary source as necessary to assure that the NAAQS are achieved.

4. Interstate Transport: The interstate transport provisions in CAA section 110(a)(2)(D)(i) (also called "good neighbor" provisions) require each state to submit a SIP that prohibits emissions that will have certain adverse air quality effects in other states. CAA section 110(a)(2)(D)(i) identifies four distinct elements related to the impacts of air pollutants transported across state lines. The two elements under 110(a)(2)(D)(i)(I) require SIPs to contain adequate provisions to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will (element 1) contribute significantly to nonattainment in any other state with respect to any such national primary or secondary NAAQS, and (element 2) interfere with maintenance by any other state with respect to the same NAAQS. The two elements under 110(a)(2)(D)(i)(II) require SIPs to contain adequate provisions to prohibit emissions that will interfere with

measures required to be included in the applicable implementation plan for any other state under part C (element 3) to prevent significant deterioration of air quality or (element 4) to protect visibility. In this action, the EPA is only addressing element 3 of CAA section 110(a)(2)(D)(i)(II) for the 2008 ozone, 2008 Pb, 2010 SO_2, 2010 NO_2 and 2012 $PM_{2.5}$ NAAQS. All other transport elements will be addressed in separate rulemaking actions.

Evaluation of Interference With Measures To Prevent Significant Deterioration (PSD)

With regard to the PSD portion of CAA section 110(a)(2)(D)(i)(II), this requirement may be met by a state's confirmation in an infrastructure SIP submission that new major sources and major modifications in the state are subject to a comprehensive EPA-approved PSD permitting program in the SIP that applies to all regulated new source review (NSR) pollutants and that satisfies the requirements of the EPA's PSD implementation rules.[4] As noted in the discussion for infrastructure element (C) earlier in this notice, the EPA is proposing to approve CAA section 110(a)(2) element (C) for Utah's infrastructure SIP for the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS with respect to PSD requirements. As discussed in detail in that section, Utah's SIP meets the current PSD-related requirements of section 110(a)(2)(C). For this reason, we are also proposing to approve Utah's infrastructure SIP as meeting the 110(a)(2)(D)(i)(II) element 3 (PSD) requirements for 2006 24-hour $PM_{2.5}$ NAAQS.

In-state sources not subject to PSD for a particular NAAQS because they are in a nonattainment area for that standard may also have the potential to interfere with PSD in an attainment or unclassifiable area of another state.[5] One way a state may satisfy element 3 with respect to these sources is by citing an air agency's EPA-approved nonattainment NSR provisions addressing any pollutants for which the state has designated nonattainment areas. Utah has a SIP-approved nonattainment NSR program which ensures regulation of major sources and major modifications in nonattainment areas, and therefore satisfies element 3 with regard to this requirement.[6]

The EPA is proposing to approve the infrastructure SIP submission with regard to the requirements of element 3 of section 110(a)(2)(D)(i) for the 2006 $PM_{2.5}$, 2008 Pb, 2008 Ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS.

5. Interstate and International transport provisions: CAA section 110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with the applicable requirements of CAA sections 126 and 115 (relating to interstate and international pollution abatement). Specifically, CAA section 126(a) requires new or modified major sources to notify neighboring states of potential impacts from the source.

Section 126(a) of the CAA requires notification to affected, nearby states of major proposed new (or modified) sources. Sections 126(b) and (c) pertain to petitions affected states may seek from the Administrator of the EPA (Administrator) regarding sources violating the "interstate transport" provisions of section 110(a)(2)(D)(i). Section 115 of the CAA similarly pertains to international transport of air pollution.

As required by 40 CFR 51.166(q)(2)(iv), Utah's SIP-approved PSD program requires notice to states whose air quality may be impacted by the emissions of sources subject to PSD.[7] This suffices to meet the notice requirement of section 126(a).

Utah has no pending obligations under sections 126(c) or 115(b) of the CAA; therefore, its SIP currently meets the requirements of those sections. In summary, the SIP meets the requirements of CAA section 110(a)(2)(D)(ii), and the EPA is therefore proposing approval of this element for the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS. The EPA is also proposing to approve the Utah SIP as meeting the requirements of section 110(a)(2)(D)(ii) for the 1997 and 2006 $PM_{2.5}$ NAAQS. Utah submitted an infrastructure certification generally addressing CAA section 110(a)(2)(D) for the 1997 $PM_{2.5}$ NAAQS on December 3, 2007, and 2006 $PM_{2.5}$ NAAQS on September 21, 2010.

6. Adequate resources: Section 110(a)(2)(E)(i) requires states to provide "necessary assurances that the State [. . .] will have adequate personnel, funding, and authority under State law to carry out [the SIP] (and is not prohibited by any provision of federal or state law from carrying out the SIP or portion thereof)." Section 110(a)(2)(E)(ii) also requires each state to "comply with the requirements respecting State boards" under CAA section 128. Section 110(a)(2)(E)(iii) requires states to provide "necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any [SIP] provision, the State has responsibility for ensuring adequate implementation of such [SIP] provision."

a. Sub-Elements (i) and (iii): Adequate Personnel, Funding, and Legal Authority Under State Law To Carry Out Its SIP, and Related Issues

The provisions contained in Chapter 2 of Title 19 of the Utah Code and Utah SIP Section I, *Legal Authority* provide UDAQ and the AQB adequate authority to carry out its SIP obligations with respect to the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS. The State receives sections 103 and 105 grant funds through its Performance Partnership Grant along with required state matching funds to provide funding necessary to carry out Utah's SIP requirements (Utah SIP Section V, *Resources*). Utah's Performance Partnership Agreement (available within the docket) with the EPA documents resources needed to provide resources to carry out agreed upon environmental program goals, measures, and commitments, including developing and implementing appropriate SIPs for all areas of the State. Annually, states update these grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS. Utah satisfactorily met all commitments agreed to in the Air Planning Agreement for fiscal year 2015. Furthermore, R307–414, *Permits: Fees for Approval Orders,* requires the owner and operator of each new major source or major modification to pay a fee sufficient to cover reasonable costs of reviewing and acting upon the notice of intent and implementing and enforcing requirements placed on such source by any approval order issued. Collectively, these rules and commitments provide evidence that Utah DAQ has adequate personnel, funding, and legal authority to carry out the State's implementation plan and related issues.

With respect to section 110(a)(2)(E)(iii), the regulations cited by Utah in their certifications (Utah SIP Section VI, *Intergovernmental Cooperation*) and contained within this docket also provide the necessary assurances that the State has responsibility for adequate implementation of SIP provisions by local governments. Therefore, we propose to approve Utah's SIP as meeting the requirements of section 110(a)(2)(E)(i) and (E)(iii) for the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS.

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[4] See 2013 Memo at 31.

[5] Id. at 31.

[6] See R307–403.

[7] See R307–110–9.

b. Sub-Element (ii): State Boards

Section 110(a)(2)(E)(ii) requires each state's SIP to contain provisions that comply with the requirements of section 128 of the CAA. Section 128 contains two explicit requirements: (i) That "any board or body which approves permits or enforcement orders under [the CAA] shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders" under the CAA; and (ii) that "any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed."

In our November 25, 2013 (78 FR 63883) action, we disapproved Utah's April 17, 2008 and September 21, 2010 infrastructure SIP submissions for the 1997 and 2006 $PM_{2.5}$ NAAQS for CAA Section 110(a)(2)(E)(ii) because the Utah SIP did not contain provisions meeting requirements of CAA section 128. Under section 110(c)(1)(B), this disapproval started a two-year clock for the EPA to promulgate a federal implementation plan (FIP) to address the deficiency.

On March 14, 2016, the EPA received a submission from the State of Utah to address the requirements of section 128, containing new rule language approved by the Utah AQB on March 2, 2016. A copy of the submission, including the new rules, Conflict of Interest R307–104–1 (*Authority*), R307–104–2 (*Purpose*) and R307–104–3 (*Disclosure of conflict of interest*), is available within this docket. These rules address conflict of interest requirements of section 128(a)(2). We propose to approve this new rule language as meeting the requirements of section 128 for the reasons explained in more detail below. Because this revision meets the requirements of section 128, we also propose to approve the State's infrastructure SIP submissions for element 110(a)(2)(E)(ii). The State submitted the provisions to meet section 128 separately, but section 128 is not NAAQS-specific and once the State has met the requirements of section 128, that is sufficient for purposes of section 110(a)(2)(E)(ii) for all NAAQS. If we finalize this proposed approval for the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS, this will also resolve the prior disapproval for element 110(a)(2)(E)(ii) for the 1997 and 2006 $PM_{2.5}$ NAAQS and terminate the EPA's FIP obligation.

We are proposing to approve the State's March 14, 2016 SIP submission as meeting the requirements of section 128 because we believe that it complies with the statutory requirements and is consistent with the EPA's guidance recommendations concerning section 128. In 1978, the EPA issued a guidance memorandum recommending ways states could meet the requirements of section 128, including suggested interpretations of certain key terms in section 128.[8] In this proposal notice, we discuss additional relevant aspects of section 128. We first note that, in the conference report of the 1977 amendments to the CAA, the conference committee stated, "[i]t is the responsibility of each state to determine the specific requirements to meet the general requirements of [section 128]." [9] This legislative history indicates that Congress intended states to have some latitude in adopting SIP provisions with respect to section 128, so long as states meet the statutory requirements of the section. We also note that Congress explicitly provided in section 128 that states could elect to adopt more stringent requirements, as long as the minimum requirements of section 128 are met.

In implementing section 128, the EPA has identified a number of key considerations relevant to evaluation of a SIP submission. The EPA has identified these considerations in the 1978 guidance and in subsequent rulemaking actions on SIP submissions relevant to section 128, whether as SIP revisions for this specific purpose or as an element of broader actions on infrastructure SIP submissions for one or more NAAQS.

Each state must meet the requirements of section 128 through provisions that the EPA approves into the state's SIP and are thus made federally enforceable. Section 128 explicitly mandates that each SIP "shall contain requirements" that satisfy subsections 128(a)(1) and 128(a)(2). A mere narrative description of state statutes or rules, or of a state's current or past practice in constituting a board or body and in disclosing potential conflicts of interest, is not a requirement contained in the SIP and does not satisfy the plain text of section 128.

Subsection 128(a)(1) applies only to states that have a board or body that is composed of multiple individuals and that, among its duties, approves permits or enforcement orders under the CAA. It does not apply in states that have no such multi-member board or body that performs these functions, and where instead a single head of an agency or other similar official approves permits or enforcement orders under the CAA. This flows from the text of section 128, for two reasons. First, as subsection 128(a)(1) refers to a majority of members of the board or body in the plural, we think it reasonable to read subsection 128(a)(1) as not creating any requirements for an individual with sole authority for approving permits or enforcement orders under the CAA. Second, subsection 128(a)(2) explicitly applies to the head of an executive agency with "similar powers" to a board or body that approves permits or enforcement orders under the CAA, while subsection 128(a)(1) omits any reference to heads of executive agencies. We infer that subsection 128(a)(1) should not apply to heads of executive agencies who approve permits or enforcement orders. States with no multi-member board or body that performs these functions, and instead have a single head of an agency or other similar official who approves CAA permits or enforcement orders, can satisfy the requirements of CAA 128(a)(1) with a negative declaration to that effect.

Subsection 128(a)(2) applies to all states, regardless of whether the state has a multi-member board or body that approves permits or enforcement orders under the CAA. Although the title of section 128 is "State boards," the language of subsection 128(a)(2) explicitly applies where the head of an executive agency, rather than a board or body, approves permits or enforcement orders. In instances where the head of an executive agency delegates his or her power to approve permits or enforcement orders, or where statutory authority to approve permits or enforcement orders is nominally vested in another state official, the requirement to adequately disclose potential conflicts of interest still applies. In other words, the EPA interprets section 128(a)(2) to apply to all states, regardless of whether a state board or body approves permits or enforcement orders under the CAA or whether a head of a state agency (or his/her delegates) performs these duties. Thus, all state SIPs must contain provisions that require adequate disclosure of potential conflicts of interest in order to meet the requirements of subsection 128(a)(2). The question of which entities or parties must be subject to such disclosure requirements must be evaluated by states and the EPA in light of the specific facts and circumstances of each state's regulatory structure.

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[8] Memorandum from David O. Bickart, Deputy General Counsel, to Regional Air Directors, Guidance to States for Meeting Conflict of Interest Requirements of Section 128 (Mar. 2, 1978).

[9] H.R. Rep. 95–564 (1977), reprinted in 3 *Legislative History of the Clean Air Act Amendments of 1977*, 526–27 (1978).

A state may satisfy the requirements of section 128 by submitting for adoption into the SIP a provision of state law that closely tracks or mirrors the language of the applicable provisions of section 128. A state may take this approach in two ways. First, the state may adopt the language of subsections 128(a)(1) and 128(a)(2) verbatim. Under this approach, the state will be able to meet the continuing requirements of section 128 without any additional, future SIP revisions, even if the state adds or removes authority, either at the state or local level, to individual or to boards or bodies to approve permits or enforcement orders under the CAA so long as the state continues to meet section 128 requirements.

Second, the state may modify the language of subsections 128(a)(1) (if applicable) and 128(a)(2) to name the particular board, body, or individual official with approval authority. In this case, if the state subsequently modifies that authority, the state may have to submit a corresponding SIP revision to meet the continuing requirements of section 128. If the state chooses to not mirror the language of section 128, the state may adopt state statutes and/or regulations that functionally impose the same requirements as those of section 128, including definitions for key terms such as those recommended in the EPA's 1978 guidance. While either of these approaches would meet the minimum requirements of section 128, the statute also explicitly authorizes states to adopt more stringent requirements, for example to impose additional requirements for recusal of board members from decisions, above and beyond the explicit board composition requirements. Although such recusal alone does not meet the requirements of section 128, states have the authority to require that over and above the explicit requirements of section 128. These approaches give states flexibility in implementing section 128, while still ensuring consistency with the statute.

As previously explained, the EPA interprets subsection 128(a)(1) to apply only to states that have a board or body with multiple members that, among its duties, approves permits or enforcement orders under the Act. In its 2012 $PM_{2.5}$ NAAQS certification, the State asserts that there is no such multi-member board or body, citing Utah Code section 19–2–104, *Powers of the board.* Subsection 19–2–104(7) specifies that the Utah AQB lacks authority over permits, and subsection 19–2–104(3) gives the Utah AQB authority only to recommend that the Director issue and enforce orders. The EPA proposes to determine that the Utah AQB does not approve permits or enforcement orders under the Act, and as a result, Utah need not submit any provisions to address the requirements of section 128(a)(1).[10] However, the EPA interprets subsection 128(a)(2) to apply to all states, regardless of whether the state has a multi-member board that approves permits or enforcement orders. As a result, 128(a)(2) applies to Utah, and, as previously explained, must be met through SIP-approved, federally enforceable provisions.

The EPA has evaluated Utah's submittal containing R307–104–1 (*Authority*), R307–104–2 (*Purpose*) and R307–104–3 (*Disclosure of conflict of interest*) (available within this docket) from the State in light of the requirements of section 128, these key considerations previously noted, and the recommendations in the 1978 guidance. To meet the requirements of subsection 128(a)(2), the State's R307–104–3 (*Disclosure of conflict of interest*), includes disclosure of conflicts of interest requirements applying to "any member of the board or body which approves permits or enforcement orders, the head of the Utah [DAQ] with similar powers, and the head of the Utah [DEQ] with similar powers." Under Utah's administrative procedures, the Director of Utah DAQ has the initial authority to issue air permits and enforcement orders, and the Executive Director of Utah DEQ has the ultimate authority to resolve administrative adjudicative proceedings regarding permits and enforcement orders. *See* Utah Code 19–1–301, 19–1–301.5. Thus, Utah's submittal addresses disclosure of potential conflicts of interest from the heads of executive agencies that approve permits and enforcement orders under the Act.

Utah's provisions are also sufficient for adequate disclosure. Under R307–104–3(2), "[e]very individual listed in R307–104–3(1) who is an officer, director, agent, employee, or the owner of a substantial interest in any business entity which is subject to the regulation of the agency by which the individual listed in R307–104–3(1) is employed, shall disclose any position held and the precise nature and value of the interest upon first becoming a public officer or public employee listed in R307–104–3(1), and again whenever his or her position in the business entity changes significantly or if the value of his or her interest in the entity is significantly increased." This language covers a sufficiently broad range of potential conflicts of interest with any business subject to regulation by Utah DAQ, including permittees and the subjects of enforcement orders. The form of disclosure is also adequate: It is made in a sworn statement to the attorney general and is made publicly available. We propose to find that these procedures provide adequate disclosure of potential conflicts of interest within the meaning of subsection 128(a)(2).

In summary, the EPA proposes to approve Utah's March 14, 2016 submittal into the SIP to meet the requirements of section 128 of the Act. We also propose to approve Utah's infrastructure SIP with respect to the requirements of Section 110(a)(2)(E)(ii) for 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS.

7. Stationary source monitoring system: Section 110(a)(2)(F) requires: (i) "the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources; (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources; and (iii) correlation of such reports by the State agency with any emission limitations or standards established pursuant to [the Act], which reports shall be available at reasonable times for public inspection."

The provisions cited by Utah in SIP Section III *Source Surveillance,* (including R307–150, and R307–165) pertain to its program of periodic emissions testing and plant inspections of stationary sources, and related testing requirements and protocols (including periodic reporting) to assure compliance with emissions limits. R307–170 requires certain large sources to install and maintain continuous emission monitors to assure compliance with emission limitations established in approval orders and the SIP. In addition, Utah provides for monitoring, recordkeeping, and reporting requirements for sources subject to minor and major source permitting.

Furthermore, Utah is required to submit emissions data to the EPA for purposes of the National Emissions Inventory (NEI). The NEI is the EPA's central repository for air emissions data. The EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data (73 FR 76539). The AERR shortened the time states had to report emissions data from 17 to 12 months, giving states one calendar-year to submit emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through the EPA's online Emissions Inventory System. States report emissions data for the six criteria pollutants and their associated precursors—nitrogen oxides, sulfur dioxide, ammonia, lead, carbon monoxide, particulate matter and volatile organic compounds. Many states also voluntarily report emissions of hazardous air pollutants. Utah made its latest update to the NEI in March 2016. The EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *https://www.epa.gov/air-emissions-inventories.*

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[10] In 2012, the Utah Legislature amended state law to generally transfer authority of the Utah AQB over permits and enforcement orders to the Director of Utah DAQ and Executive Director of Utah DEQ. See 78 FR 52477, 52482 (Aug. 23, 2013).

Based on the analysis above, we propose to approve the Utah SIP as meeting the requirements of CAA section 110(a)(2)(F) for the 2008 Pb, 2008 ozone, 2010 NO$_2$, 2010 SO$_2$ and 2012 PM$_{2.5}$ NAAQS.

8. Emergency powers: Section 110(a)(2)(G) of the CAA requires infrastructure SIPs to "provide for authority comparable to that in [CAA section 303] and adequate contingency plans to implement such authority[.]"

Under CAA section 303, the EPA Administrator has authority to bring suit to immediately restrain an air pollution source that presents an "imminent and substantial endangerment to public health or welfare, or the environment."[11] If such action may not practicably assure prompt protection, then the Administrator has authority to issue temporary administrative orders to protect the public health or welfare, or the environment, and such orders can be extended if the EPA subsequently files a civil suit. We propose to find that Utah's infrastructure SIP submittals provide for authority for the State comparable to that granted to the EPA Administrator to act in the face of an imminent and substantial endangerment to the public's health or welfare, or the environment.

Utah's SIP submittals with regard to the section 110(a)(2)(G) emergency order requirements cite the EPA approved provisions (State SIP Section I *Legal Authority* codified at R307–110–2) to abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons. Utah Code 19–2–116(3)(a) also provides the director the power to "initiate an action for appropriate injunctive relief . . . when it appears necessary for the protection of health and welfare." Utah Code 19–2–112(1)(a) provides authority to the "executive director, with the concurrence of the governor" to order people "causing or contributing to . . . air pollution to reduce or discontinue immediately the emission of air pollutants" if the "executive director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety." Utah Code 19–2–112(2)(a) describes how in instances of an "absence of a generalized condition of air pollution" referred to in subsection (1), the executive director may still commence adjudicative proceedings as long as the executive director "finds that emissions from the operation of one or more air pollutant sources is causing imminent danger to human health or safety."

In regard to imminent and substantial endangerment to the environment, Utah's Emergency Management Act allows the Governor to issue rules and regulations having the "full force and effect of law" during a state of emergency. Additionally, Utah Code 53–2a–209(1) allows the Governor to suspend rules and regulations of state agencies that would prevent the ability to adequately deal with such disasters. *See* Utah Code 53–2a–209(3).

While no single Utah statute mirrors the authorities of CAA section 303, we propose to find that the combination of Utah Code, UAC Rules, and Utah's Emergency Management Act provisions previously discussed provide for authority comparable to section 303. Section 303 authorizes the Administrator to immediately bring suit to restrain and issue emergency orders when necessary, to enable the Administrator to take prompt administrative action against any person causing or contributing to air pollution that presents an imminent and substantial endangerment to public health or welfare, or the environment. Therefore, we propose that Utah's SIP submittals sufficiently meet the requirements of CAA 110(a)(2)(G) because they demonstrate that Utah has authority comparable to CAA section 303.

States must also have adequate contingency plans adopted into their SIP to implement the air agency's emergency episode authority (as previously discussed). This can be done by submitting a plan that meets the applicable requirements of 40 CFR part 51, subpart H for the relevant NAAQS if the NAAQS is covered by those regulations. The EPA approved Utah's State SIP Section VII (*Prevention of Air Pollution Emergency Episodes*), codified at R307–110–8, most recently on February 14, 2006 at 71 FR 7679. We find that Utah's air pollution emergency rules include PM$_{10}$,[12] ozone, NO$_2$, and SO$_2$; establish stages of episode criteria; provide for public announcement whenever any episode stage has been determined to exist; and specify emission control actions to be taken at each episode stage, consistent with the EPA emergency episode SIP requirements set forth at 40 CFR part 51 subpart H (prevention of air pollution emergency episode) for particulate matter, ozone, NO$_2$, and SO$_2$.

As noted in the 2011 Memo "based on [the] EPA's experience to date with the Pb NAAQS and designating Pb nonattainment areas, [the] EPA expects that an emergency episode associated with Pb emissions would be unlikely and, if it were to occur, would be the result of a malfunction or other emergency situation at a relatively large source of Pb" (page 14).[13] Accordingly, the EPA believes the central components of a contingency plan would be to reduce emissions from the source at issue and communicate with the public as needed. We note that 40 CFR part 51, subpart H (51.150–51.152) and 40 CFR part 51, Appendix L do not apply to Pb.

Based on the above analysis, we propose approval of Utah's SIP as meeting the requirements of CAA section 110(a)(2)(G) for the 2008 Pb, 2008 ozone, and 2010 NO$_2$, 2010 SO$_2$ and 2012 PM$_{2.5}$ NAAQS.

9. Future SIP revisions: Section 110(a)(2)(H) requires that SIPs provide for revision of such plan: (i) "[f]rom time to time as may be necessary to take account of revisions of such national primary or secondary ambient air

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[11] A discussion of the requirements for meeting CAA section 303 is provided in our notice of proposed rulemaking: Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 1997 and 2006 PM$_{2.5}$, 2008 Lead, 2008 Ozone, and 2010 NO$_2$ National Ambient Air Quality Standards; South Dakota (79 FR 71040, Dec. 1, 2014) under "VI. Analysis of State Submittals, 8. Emergency powers."

[12] The EPA has not yet promulgated regulations for ambient levels pertaining to priority levels for PM$_{2.5}$ under the 2012 NAAQS (2013 Memo, p. 47). EPA's September 25, 2009 Memo (available within the docket) suggested that states with areas that have had a PM$_{2.5}$ exceedance greater than 140.4 mg/m3 should develop and submit an emergency episode plan. If no such concentration was recorded in the last three years, the guidance suggested that the State can rely on its general emergency authorities. In this rulemaking, we continue to view these suggestions as appropriate in assessing Utah's SIP for this element. Utah has not had such a recorded PM$_{2.5}$ level and thus an emergency episode plan for PM$_{2.5}$ is not necessary. The SIP therefore meets the requirements of CAA section 110(a)(2)(G) for the 2012 PM$_{2.5}$ NAAQS.

[13] October 14, 2011, "Guidance on Infrastructure SIP Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS)."

quality standard or the availability of improved or more expeditious methods of attaining such standard[;] and (ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the [SIP] is substantially inadequate to attain the [NAAQS] which it implements or to otherwise comply with any additional requirements under this [Act]."

Utah SIP Section I cites 19–2–104 and 19–2–109 of the Utah Code. Sections 19–2–104 and 19–2–109 give the AQB sufficient authority to meet the requirements of CAA section 110(a)(2)(H). Therefore, we propose to approve Utah's SIP as meeting the requirements of CAA section 110(a)(2)(H).

10. Consultation with government officials, public notification, PSD and visibility protection: Section 110(a)(2)(J) requires that each SIP "meet the applicable requirements of section 121 of this title (relating to consultation), section 127 of this title (relating to public notification), and part C of this subchapter (relating to PSD of air quality and visibility protection)."

In its certifications, the State cites SIP Section I (*Legal Authority*) adopting requirements for transportation consultation, SIP Section VI (*Intergovernmental Cooperation*), and SIP Section XII (*Transportation Conformity Consultation)* to meet the requirements of CAA section 121. The State has demonstrated that it has the authority and rules in place to provide a process of consultation with general purpose local governments, designated organizations of elected officials of local governments and any Federal Land Manager having authority over federal land to which the SIP applies, consistent with the requirements of CAA section 121 (*see* 59 FR 2988, Jan. 20, 1994). Furthermore, SIP section XVI, cited by Utah, meets the general requirements of CAA section 127 to notify the public when the NAAQS have been exceeded.

The State has a SIP-approved PSD program that incorporates by reference the federal program at 40 CFR 52.21; these provisions are located in R307–405–2 of the UAC. The EPA has further evaluated Utah's SIP-approved PSD program in this proposed action under VI.3 of this notice which analyzes whether the Utah SIP has met CAA section 110(a)(2)(C). There, we propose approval with respect to the PSD requirements of element (C); we likewise do so here with respect to the PSD requirements of element (J).

Finally, with regard to the applicable requirements for visibility protection, the EPA recognizes states are subject to visibility and regional haze program requirements under part C of the Act. In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, we find that there are no applicable visibility requirements under section 110(a)(2)(J) when a new NAAQS becomes effective.

Based on the above analysis, we propose to approve the Utah SIP as meeting the requirements of CAA section 110(a)(2)(J) for the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS.

11. Air quality and modeling/data: Section 110(a)(2)(K) requires each SIP provide for: (i) "the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a [NAAQS]; and (ii) the submission, upon request, of data related to such air quality modeling to the Administrator."

UAC rule R307–405–13 incorporates by reference the air quality model provisions of 40 CFR 52.21(l), which includes the air quality model requirements of appendix W of 40 CFR part 51, pertaining to the Guideline on Air Quality Models. Additionally, Utah Code 19–104(1)(a)–(b) provide the AQB with the authority to propose and finalize rules that require air quality modeling for the purpose of predicting the effect on ambient air quality relating to NAAQS. As a result, the SIP provides for such air quality modeling as the Administrator has prescribed.

Therefore, we propose to approve the Utah SIP as meeting the CAA section 110(a)(2)(K) for the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS.

12. Permitting fees: Section 110(a)(2)(L) requires "the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this [Act], a fee sufficient to cover[:] (i) The reasonable costs of reviewing and acting upon any application for such a permit[;] and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under [title] V."

UAC rule R307–414, *Permits: Fees for Approval Orders*, requires the owner and operator of each new major source or major modification to pay a fee sufficient to cover the reasonable costs of reviewing and acting upon the notice of intent and implementing and enforcing requirements placed on such source by any approval order issued. The EPA approved R307–414 most recently on February 14, 2006 at 71 FR 7679. SIP Section I (*Legal Authority*) "identifies the statutory authority to charge a fee to major sources to cover permit and enforcement expenses . . ." SIP Section I was codified at R307–10–2 and the EPA approved it most recently on June 25, 2003 at 68 FR 37744.

We also note that all the State's certifications cite R307–415 which is the regulation that provides for collection of permitting fees under Utah's approved title V permit program (60 FR 30192, June 8, 1995). As discussed in that approval, the State demonstrated that the fees collected were sufficient to administer the program.

Therefore we propose to approve the submissions as supplemented by the State for the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS.

13. Consultation/participation by affected local entities: Section 110(a)(2)(M) requires states to "provide for consultation and participation [in SIP development] by local political subdivisions affected by [the SIP]."

The provisions cited in Utah's SIP submittals (SIP Section VI (*Intergovernmental Cooperation*) codified at R307–110–7 and SIP Section XII (*Transportation Conformity Consultation*) codified at R307–110–20, contained within this docket) meet the requirements of CAA section 110(a)(2)(M). We propose to approve Utah's SIP as meeting these requirements for the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS.

VII. What action is the EPA taking?

In this action, the EPA is proposing to approve infrastructure elements for the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS from the State's certifications as shown in Table 1. Elements we propose no action on are reflected in Table 2. Finally, the EPA is proposing to approve a new UAC submitted on March 14, 2016 to satisfy requirements of element (E)(ii),which refers to requirements related to state boards.

A comprehensive summary of infrastructure elements, and revisions and additions to the UAC organized by the EPA's proposed rule action are provided in Table 1 and Table 2.

TABLE 1—LIST OF UTAH INFRASTRUCTURE ELEMENTS AND REVISIONS THAT THE EPA IS PROPOSING TO APPROVE

Proposed for approval
December 3, 2007 submittal—1997 $PM_{2.5}$ NAAQS: (D)(ii)
September 21, 2010 submittal—2006 $PM_{2.5}$ NAAQS: (D)(ii)
January 19, 2012 submittal—2008 Pb NAAQS: (A), (C), (D)(i)(II) element 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
June 2, 2013 submittal—2010 SO_2 NAAQS: (A), (C), (D)(i)(II) element 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
January 31, 2013 submittal—2008 Ozone NAAQS: (A), (B), (C), (D)(i)(II) element 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
January 31, 2013 submittal—2010 NO_2 NAAQS: (A), (C), (D)(i)(II) element 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
December 4, 2015 submittal—2012 $PM_{2.5}$ NAAQS: (A), (C), (D)(i)(II) element 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
March 14, 2016 submittal—New Rules to UAC Rules, CAA Section 128 R307–104–1, R307–104–2 and R307–104–3.

TABLE 2—LIST OF UTAH INFRASTRUCTURE ELEMENTS AND REVISIONS THAT THE EPA IS PROPOSING TO TAKE NO ACTION ON

Proposed for no action (Revision to be made in separate rulemaking action)
January 19, 2012 submittal—2008 Pb NAAQS: (B), (D)(i)(I) elements 1 and 2, (D)(i)(II) element 4.
January 31, 2013 submittal—2008 Ozone NAAQS: (D)(i)(I) elements 1 and 2, (D)(i)(II) element 4.
January 31, 2013 submittal—2010 NO_2 NAAQS: (B), (D)(i)(I) elements 1 and 2, (D)(i)(II) element 4.
June 2, 2013 submittal—2010 SO_2 NAAQS: (B), (D)(i)(I) elements 1 and 2, (D)(i)(II) element 4.
December 22, 2015 submittal—2012 $PM_{2.5}$ NAAQS: (B), (D)(i)(I) elements 1 and 2, (D)(i)(II) element 4.

VIII. Incorporation by Reference

In this rule, the EPA is proposing to include in a final the EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Utah Administrative Code Rules pertaining to state board requirements VI.6. b. *Sub-element (ii): State boards,* of this preamble. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

IX. Statutory and Executive Orders Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations (42 U.S.C. 7410(k), 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves some state law as meeting federal requirements and disapproves other state law because it does not meet federal requirements; this proposed action does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, Oct. 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, Aug. 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and,
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, Feb. 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Greenhouse gases, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 13, 2016.

Debra H. Thomas,

Acting Regional Administrator, Region 8.

[FR Doc. 2016–09586 Filed 4–25–16; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0002; FRL–9945–46–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; 2011 Base Year Inventories for the 2008 8-Hour Ozone National Ambient Air Quality Standard for the Allentown-Bethlehem-Easton, Lancaster, Pittsburgh-Beaver Valley, and Reading Areas, and the Pennsylvania Portion of the Philadelphia-Wilmington-Atlantic City Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the 2011 base year inventories for the 2008 8-hour ozone national ambient air quality standard (NAAQS) for the Allentown-Bethlehem-Easton, Lancaster, Pittsburgh-Beaver Valley, and Reading nonattainment areas, and the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City nonattainment area, submitted by the Commonwealth of Pennsylvania as a revision to the Pennsylvania State Implementation Plan (SIP). In the Rules and Regulations section of this issue of the **Federal Register**, EPA is approving Pennsylvania's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. More detailed descriptions of the state submittal and EPA's evaluation are included in Technical Support Documents (TSD) prepared in support of this rulemaking action. Copies of the TSDs are available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document or are also available electronically within the Docket for this rulemaking action. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 26, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2016–0002 at *http://www.regulations.gov,* or via email to *fernandez.cristina@epa.gov.* For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, (215) 814–2181, or by email at *pino.maria@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information regarding Pennsylvania's 2011 base year inventories for the 2008 8-hour ozone NAAQS for the Allentown-Bethlehem-Easton, Lancaster, Pittsburgh-Beaver Valley, and Reading areas, and the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City area, please see the information provided in the direct final action, with the same title, that is located in the Rules and Regulations section of this issue of the **Federal Register**.

Dated: April 8, 2016.

Shawn M. Garvin,

Regional Administrator, Region III.

[FR Doc. 2016–09590 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2012–0323; FRL–9945–63–Region 4]

Air Plan Approval and Air Quality Designation; TN; Redesignation of the Sullivan County Lead Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On July 15, 2015, the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Bristol, Tennessee 2008 lead nonattainment area (hereafter referred to as the "Bristol Area" or the "Area") to attainment for the 2008 lead National Ambient Air Quality Standards (NAAQS) and an associated State Implementation Plan (SIP) revision containing a maintenance plan and a reasonably available control measures (RACM) determination for the Area. EPA is proposing to determine that the Bristol Area is continuing to attain the 2008 lead NAAQS; to approve the SIP revision containing the State's maintenance plan for maintaining attainment of the 2008 lead standard and the State's RACM determination; and to redesignate the Bristol Area to attainment for the 2008 lead NAAQS.

DATES: Comments must be received on or before May 26, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0323 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Sean Lakeman of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Lakeman may be reached by phone at (404) 562–9043 or via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What are the actions EPA is proposing to take?

EPA is proposing to take the following four separate but related actions: (1) To approve Tennessee's RACM determination for the Bristol Area pursuant to Clean Air Act (CAA) section 172(c)(1) into the SIP; (2) to determine that the Area is continuing to attain the 2008 lead NAAQS; (3) to approve Tennessee's maintenance plan for maintaining the 2008 lead NAAQS in the Area into the SIP; and (4) to redesignate the Area. The Bristol Area is comprised of the portion of Sullivan County, Tennessee, bounded by a 1.25 kilometer radius surrounding the Universal Transverse Mercator (UTM) coordinates 4042923 meters E., 386267 meters N., Zone 17, which surrounds the lead acid-battery manufacturing and lead oxide production facility owned by Exide Technologies (Exide Facility).

EPA's 2008 lead nonattainment designation for the Area triggered an obligation for Tennessee to develop a nonattainment SIP revision addressing certain CAA requirements under title I, part D, subpart 1 (hereinafter "Subpart 1") and to submit that SIP revision in accordance with the deadlines in title I, part D, subpart 5. Subpart 1 contains the general requirements for nonattainment areas for criteria pollutants, including requirements to develop a SIP that provides for the implementation of RACM, requires reasonable further progress (RFP), includes base-year and attainment-year emissions inventories, and provides for the implementation of contingency measures. On August 29, 2012, EPA published a final determination that the Area had attained the 2008 lead NAAQS by the attainment date based on quality-assured and certified ambient air monitoring data for the 2007–2009 time period. *See* 77 FR 52232. In that determination and in accordance with EPA's clean data policy, EPA suspended the requirements for the Area to submit a SIP revision addressing RACM, RFP plans, contingency measures, and certain other Subpart 1 requirements so long as the Area continues to attain the 2008 lead NAAQS.[1] Although these requirements are suspended, EPA is proposing to determine that the State's Subpart 1 RACM determination meets the requirements of section 172(c)(1) of the CAA and is proposing to approve this RACM determination into the SIP for the reasons discussed in Section V.A, below.

EPA is also making the preliminarily determination that the Bristol Area is continuing to attain the 2008 lead NAAQS based on recent air quality data, and proposing to approve Tennessee's maintenance plan for the Bristol Area as meeting the requirements of section 175A (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to keep the Bristol Area in attainment of the 2008 lead NAAQS through 2025. As explained in Section V.B, below, EPA is also proposing to determine that attainment can be maintained through 2026.

EPA is also proposing to determine that the Bristol Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Accordingly, in this action, EPA is proposing to approve a request to change the legal designation of the Bristol Area from nonattainment to attainment for the 2008 lead NAAQS.

In summary, today's notice of proposed rulemaking is in response to Tennessee's July 15, 2015, redesignation request and associated SIP submission that address the specific issues summarized above and the necessary elements described in section 107(d)(3)(E) of the CAA for redesignation of the Bristol Area to attainment for the 2008 lead NAAQS.[2]

II. What is the background for EPA's proposed actions?

On November 12, 2008, EPA promulgated a revised primary and secondary lead NAAQS of 0.15 micrograms per cubic meter (μg/m^3). *See* 73 FR 66964. Under EPA's regulations at 40 CFR part 50, the 2008 lead NAAQS are met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with appendix R of 40 CFR part 50, is less than or equal to 0.15 μg/m^3. *See* 40 CFR 50.16. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement.

EPA designated the Bristol Area as a nonattainment area for the 2008 lead NAAQS on November 22, 2010 (effective December 31, 2010), using 2007–2009 ambient air quality data. *See* 75 FR 71033. This established an attainment date five years after the December 31, 2010, effective date for the 2008 lead nonattainment designations pursuant to CAA section 172(a)(2)(A). Therefore, the Bristol Area's attainment date is December 31, 2015.

As discussed above, EPA determined that Tennessee had attained the 2008 lead NAAQS prior to the attainment date and issued a Clean Data Determination on August 29, 2012. *See* 77 FR 52232. Although a Clean Data Determination waives the requirements for an attainment demonstration, a state must submit, and EPA must approve, a redesignation request and a maintenance plan SIP revision before an area can be redesignated to attainment.

III. What are the criteria for redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation providing that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the state containing such area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

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[1] Following enactment of the CAA Amendments of 1990, EPA promulgated its interpretation of the requirements for implementing the NAAQS in the general preamble for the Implementation of Title I of the CAA Amendments of 1990 (General Preamble) 57 FR 13498, 13564 (April 16, 1992). In 1995, based on the interpretation of CAA sections 171 and 172, and section 182 in the General Preamble, EPA set forth what has become known as its "Clean Data Policy" for the 1-hour ozone NAAQS. *See* Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, "RFP, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard" (May 10, 1995). Since 1995, EPA has applied its interpretation under the Clean Data Policy in many rulemakings, suspending certain attainment-related planning requirements for individual areas, based on a determination of attainment and that interpretation has been upheld by federal courts. For more information on the Clean Data Policy and its application to the 2008 lead NAAQS, see EPA's August 29, 2012, final action. *See* 77 FR 52232.

[2] The date of the transmittal letter for Tennessee's submittal is July 10, 2015.

On April 16, 1992, EPA provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereafter referred to as the "Calcagni Memorandum");
2. "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; and
3. "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment," Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994.

IV. Why is EPA proposing these actions?

On July 15, 2015, Tennessee requested that EPA redesignate the Bristol Area to attainment for the 2008 lead NAAQS and submitted an associated SIP revision containing a maintenance plan and a Subpart 1 RACM determination. EPA's evaluation indicates that the RACM determination meets the requirements of CAA section 172(c)(1), the Bristol Area continues to attain the 2008 lead NAAQS, and the Bristol Area meets the requirements for redesignation as set forth in section 107(d)(3)(E)(i), including the maintenance plan requirements under section 175A of the CAA. As a result, EPA is proposing to take the four related actions summarized in section I of this notice.

V. What is EPA's analysis of the state's redesignation request and SIP revision?

As stated above, in accordance with the CAA, EPA proposes in this action to: (1) Approve Tennessee's Subpart 1 RACM determination for the Bristol Area into the Tennessee SIP; (2) determine that the Area is continuing to attain the 2008 lead NAAQS; (3) approve the 2008 lead NAAQS maintenance plan for the Area into the SIP; and (4) redesignate the Area to attainment for the 2008 lead NAAQS.

A. RACM Determination

1. Relationship Between Subpart 1 RACM and the Redesignation Criteria

EPA does not believe that Subpart 1 nonattainment planning requirements, including RACM, are "applicable" for purposes of CAA section 107(d)(3)(E)(ii) once an area is attaining the NAAQS and, therefore, does not believe that these planning requirements must be approved into the SIP before EPA can redesignate an area to attainment. *See* 80 FR 16331 (March 27, 2015). However, on March 18, 2015, the United States Court of Appeals for the Sixth Circuit (Sixth Circuit) issued an opinion in *Sierra Club* v. *EPA*, 781 F.3d 299 (6th Cir. 2015), that is inconsistent with this longstanding interpretation regarding section 107(d)(3)(E)(ii). In its decision, the Court vacated EPA's redesignation of the Indiana and Ohio portions of the Cincinnati-Hamilton nonattainment area to attainment for the 1997 $PM_{2.5}$ NAAQS because EPA had not yet approved Subpart 1 RACM for the Cincinnati Area into the Indiana and Ohio SIPs.[3] The Court concluded that "a State seeking redesignation 'shall provide for the implementation' of RACM/RACT, even if those measures are not strictly necessary to demonstrate attainment with the $PM_{2.5}$ NAAQS. . . . If a State has not done so, EPA cannot 'fully approve[]' the area's SIP, and redesignation to attainment status is improper." *Sierra Club*, 781 F.3d at 313.

EPA is bound by the Sixth Circuit's decision in *Sierra Club* v. *EPA* within the Court's jurisdiction.[4] Although EPA continues to believe that Subpart 1 RACM is not an applicable requirement under section 107(d)(3)(E) for an area that has already attained the 2008 lead NAAQS, EPA is proposing to approve Tennessee's RACM determination into the SIP pursuant to the Court's decision.[5] [6]

2. Subpart 1 RACM Requirements

Subpart 1 requires that each attainment plan "provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from the existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology), and shall provide for attainment of the national primary ambient air quality standards." *See* CAA section 172(c)(1). EPA has consistently interpreted this provision to require only implementation of potential RACM measures that could advance attainment.[7] Thus, where an area is already attaining the standard, no additional RACM measures are required. EPA's interpretation that Subpart 1 requires only the implementation of RACM measures that would advance attainment was upheld by the United States Court of Appeals for the Fifth Circuit[8] and by the United States Court of Appeals for the DC Circuit.[9]

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[3] The Court issued an amended decision on July 14, 2015, revising some of the legal aspects of the Court's analysis of the relevant statutory provisions (section 107(d)(3)(E)(ii) and section 172(c)(1)) but maintaining its prior holding that section 172(c)(1) "unambiguously requires implementation of RACM/RACT prior to redesignation . . . even if those measures are not strictly necessary to demonstrate attainment with the $PM_{2.5}$ NAAQS." *See Sierra Club* v. *EPA,* 793 F.3d 656, 670 (6th Cir. 2015).

[4] The states of Kentucky, Michigan, Ohio, and Tennessee are located within the Sixth Circuit's jurisdiction.

[5] Pursuant to 40 CFR 56.5(b), the EPA Region 4 Regional Administrator signed a memorandum on July 20, 2015, seeking concurrence from the Director of EPA's Air Quality Policy Division (AQPD) in the Office of Air Quality Planning and Standards to act inconsistent with EPA's interpretation of CAA sections 107(d)(3)(E) and 172(c)(1) when taking action on pending and future redesignation requests in Kentucky and Tennessee because the Region is bound by the Sixth Circuit's decision in *Sierra Club* v. *EPA*. The AQPD Director issued her concurrence on July 22, 2015. The July 20, 2015, memorandum with AQPD concurrence is located in the docket for today's proposed actions.

[6] On September 3, 2015, the Sixth Circuit denied the petitions for rehearing en banc of this portion of its opinion that were filed by EPA, the state of Ohio, and industry groups from Ohio. *Sierra Club* v. *EPA,* Nos. 12–3169, 12–3182, 12–3420, Doc. 136–1 (6th Cir. Sept. 3, 2015). On March 28, 2016, the United States Supreme Court denied Ohio's petition for a writ of certiorari seeking review of *Sierra Club* v. *EPA*.

[7] This interpretation was adopted in the General Preamble, see 57 FR 13498 (April 16, 1992), and has been upheld as applied to the Clean Data Policy, as well as to nonattainment SIP submissions. *See NRDC* v. *EPA,* 571 F.3d 1245 (D.C. Cir. 2009); *Sierra Club* v. *EPA,* 294 F.3d 155 (D.C. Cir. 2002).

[8] *Sierra Club* v. *EPA,* 314 F.3d 735, 743–745 (5th Cir. 2002).

[9] *Sierra Club* v. *EPA,* 294 F.3d 155, 162–163 (D.C. Cir. 2002); *NRDC* v. *EPA,* 571 F.3d 1245, 1252 (D.C. Cir. 2009).

3. Proposed Action on RACM Based on Attainment of the NAAQS

In its July 15, 2015, SIP revision, the State determined that no additional control measures are necessary in the Area to satisfy the section 172(c)(1) RACM requirement. EPA is proposing to approve this determination on the basis that the Area has attained the 2008 lead NAAQS and, therefore, no emission reduction measures are necessary to satisfy Subpart 1 RACM. As noted above, EPA has determined that the Area has attaining data for the 2008 lead NAAQS and met the standard by the December 31, 2015, attainment date. *See* 77 FR 52232. Because the Area has attained the standard, there are no emissions controls that could advance the attainment date; thus, no emissions controls are necessary to satisfy Subpart 1 RACM.

4. Proposed Action on RACM Based on the State's Analysis

Additionally, Tennessee's Subpart 1 RACM determination is approvable on the basis that the SIP revision demonstrates that no additional reasonably available controls would have advanced the attainment date. In Tennessee's RACM analysis, the State notes that the only source of lead emissions in the Area—the Exide Facility—permanently shut down in 2014. In a letter to TDEC dated October 30, 2014, Exide Technologies surrendered its major source air operating permit and stated that the lead oxide and lead acid-battery production process equipment, constituting the potential sources of air emissions covered by the air permit, had been decommissioned and largely removed from the site. The State also notes that, by July 16, 2008, the Exide Facility was operating fabric filters and wet scrubbers to comply with EPA's maximum achievable control technology (MACT) standards in 40 CFR part 63, subpart PPPPPP for lead-acid battery manufacturing facilities and that these MACT standards satisfied RACM requirements for controlling lead emissions. EPA has reviewed the RACM portion of Tennessee's July 15, 2015, SIP revision and agrees with the State's determination that it was not necessary to adopt or implement additional lead control measures in the Area.

B. Redesignation Request and Maintenance Demonstration

The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs of this section.

Criteria (1)—The Bristol Area Has Attained the 2008 Lead NAAQS

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS. *See* CAA section 107(d)(3)(E)(i). For lead, an area may be considered to be attaining the 2008 lead NAAQS if it meets the 2008 lead NAAQS, as determined in accordance with 40 CFR 50.16 and Appendix R of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the NAAQS, the maximum arithmetic 3-month mean concentration for a 3-year period lead concentrations measured at each monitor within an area over each year must not exceed 0.15 μg/m^3. Based on the data handling and reporting convention described in 40 CFR part 50, Appendix R, the NAAQS are attained if the design value is 0.15 μg/m^3 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

On August 29, 2012, EPA determined that the Bristol Area was attaining the 2008 lead NAAQS based on certified 2009–2011 data. *See* 77 FR 52232. In this proposed action, EPA is preliminarily determining that the Bristol Area has continued to attain the 2008 lead NAAQS since 2011. EPA has reviewed quality-assured lead monitoring data, recorded in AQS, for 2012–2014 from the state-run monitoring station in the Bristol Area as well as preliminary data from this station for 2015.[10] The 3-year design values for 2008–2014 from this monitoring station are summarized in Table 1, below.

TABLE 1—2008–2014 DESIGN VALUE CONCENTRATIONS FOR THE BRISTOL AREA (μg/m^3)

Monitoring station	2008–2010	2009–2011	2010–2012	2011–2013	2012–2014
47–163–3004	0.05	0.08	0.08	0.08	0.07

The 3-year design value for 2012–2014 for the Bristol Area is 0.07 μg/m^3 which meets the NAAQS. Although 2012–2014 data are the most recent quality-assured and certified data, preliminary 2015 data indicate that the Area continues to attain the standard. In today's proposed action, EPA is proposing to determine that the Bristol Area is continuing to attain the 2008 lead NAAQS. If the Area does not continue to attain the standard before EPA finalizes the redesignation, EPA will not go forward with the redesignation. As discussed in more detail below, Tennessee has committed to continue monitoring ambient air lead concentrations in this Area in accordance with 40 CFR part 58.

Criteria (2)—Tennessee has a Fully Approved SIP Under Section 110(k) for the Bristol Area; and Criteria (5)—Tennessee Has Met all Applicable Requirements Under Section 110 and Part D of Title I of the CA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for the area (CAA section 107(d)(3)(E)(ii)). EPA proposes to find that Tennessee has met all applicable SIP requirements for the Bristol Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that Tennessee has met all applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v) and that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii) contingent upon approval of Tennessee's Subpart 1 RACM determination for the Area. In making these proposed determinations, EPA ascertained which requirements are applicable to the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were applicable prior to submittal of the complete redesignation request.

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[10] Data from the state-run monitor can be used for comparison with the NAAQS because it is operated in accordance with 40 CFR part 58. In addition to the State-run monitor, Exide Technologies operates three monitors in the Area. Although data from Exide's monitors cannot be used for comparison with the NAAQS because compliance with the quality assurance provisions in 40 CFR part 58 has not been verified, Tennessee provided the measurements from these monitors as additional support information in the July 15, 2015, SIP submission.

a. The Bristol Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

General SIP requirements. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (New Source Review (NSR) permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.*, for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 2008); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001). Nonetheless, EPA has approved Tennessee's SIP revision related to the section 110 requirements for the 2008 lead NAAQS. *See* 78 FR 36440 (June 18, 2013); and 78 FR 67307 (November 12, 2013).

Title I, Part D, applicable SIP requirements. Subpart 1 of part D, found in sections 172–176 of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas. All areas that were designated nonattainment for the 2008 lead NAAQS were designated under Subpart 1 of the CAA in accordance with the deadlines in subpart 5. For purposes of evaluating this redesignation request, the applicable part D, Subpart 1 SIP requirements for all nonattainment areas are contained in sections 172(c)(1)–(9) and in section 176. A thorough discussion of the requirements contained in sections 172 and 176 can be found in the General Preamble for Implementation of title I. *See* 57 FR 13498 (April 16, 1992).

Subpart 1 Section 172 Requirements. Section 172 requires states with nonattainment areas to submit attainment plans providing for timely attainment and meeting a variety of other requirements. However, EPA's final determination that the Area is attaining the lead standard suspended Tennessee's obligation to submit most of the attainment planning requirements that would otherwise apply.

EPA's longstanding interpretation of the nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not "applicable" for purposes of CAA section 107(d)(3)(E)(ii) and therefore need not be approved into the SIP before EPA can redesignate the area. In the 1992 General Preamble for Implementation of Title I, EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. *See* 57 FR 13498, 13564 (April 16, 1992). EPA noted that the requirements for reasonable further progress (RFP) and other measures designed to provide for attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements "have no meaning" for an area that has already attained the standard. *Id.* This interpretation was also set forth in the Calcagni Memorandum. EPA's understanding of section 172 also forms the basis of its Clean Data Policy, which suspends a state's obligation to submit most of the attainment planning requirements that would otherwise apply, including an attainment demonstration and planning SIPs to provide for RFP, RACM, and contingency measures under section 172(c)(9). However, as discussed above, EPA is proposing to approve Tennessee's RACM determination into the SIP in response to the Sixth Circuit's decision that section 172(c)(1) RACM is an applicable requirement under 107(d)(3)(E)(ii) and must be approved into the SIP before EPA can redesignate an area that is subject to section 172(c)(1) requirements.

Because attainment has been reached in the Area, no additional measures are needed to provide for attainment. Therefore, the section 172(c)(2) requirement that nonattainment plans contain provisions promoting reasonable further progress toward attainment is not relevant for purposes of redesignation because EPA has determined that the Area has monitored attainment of the NAAQS. In addition, because the Area has attained the standard and is no longer subject to a RFP requirement, the requirement to submit the section 172(c)(9) contingency measures is not applicable for purposes of redesignation. Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the NAAQS. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(3) requires submission for approval a comprehensive, accurate, and current inventory of actual emissions. On January 9, 2014, EPA approved Tennessee's 2010 base-year emissions inventory for the Area. *See* 79 FR 1593.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources to be allowed in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. Tennessee currently has a fully-approved part D NSR program in place. However, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment." Tennessee has demonstrated that the Area will be able to maintain the NAAQS without part D NSR in effect, and therefore Tennessee need not have fully approved part D NSR programs prior to approval of the redesignation request. Tennessee's PSD program will become effective in the Area upon redesignation to attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, EPA believes that the Tennessee SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

Section 172(c)(8) allows a state to use equivalent modeling, emission inventory, and planning procedures if such use is requested by the state and approved by EPA. Tennessee has not requested the use of equivalent techniques under section 172(c)(8).

Section 176 Conformity Requirements. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement, and enforceability that EPA promulgated pursuant to its authority under the CAA. In light of the elimination of lead additives in gasoline, transportation conformity does not apply to the lead NAAQS. *See* 73 FR 66964.

b. The Bristol Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

EPA has fully approved the applicable Tennessee SIP for the Bristol Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation with the exception of the Subpart 1 RACM requirements. EPA may rely on prior SIP approvals in approving a redesignation request (*see* Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–90 (6th Cir. 1998); *Wall,* 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action. *See* 68 FR 25426 (May 12, 2003) and citations therein. Following passage of the CAA of 1970, Tennessee has adopted and submitted, and EPA has fully approved at various times, provisions addressing various SIP elements applicable for the 2008 lead NAAQS in the Bristol Area (*e.g.,* 78 FR 36440 (June 18, 2013); and 78 FR 67307 (November 12, 2013)). In today's proposed action, EPA is proposing to approve the State's Subpart 1 RACM determination for the Area into the Tennessee SIP.

As indicated above, EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions nor linked to an area's nonattainment status are not applicable requirements for purposes of redesignation. If EPA finalizes approval of the State's Subpart 1 RACM determination, EPA will have approved all part D requirements applicable for purposes of this redesignation pursuant to the Sixth Circuit's decision.

Criteria (3)—The Air Quality Improvement in the Bristol Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable Federal air pollution control regulations, and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). EPA has preliminarily determined that Tennessee has demonstrated that the observed air quality improvement in the Bristol Area is due to permanent and enforceable reductions in emissions.

When EPA designated the Bristol Area as a nonattainment for the lead NAAQS, EPA determined that operations at the Exide Facility were the primary cause of the 2008 lead NAAQS violation in the Area. The Facility installed fabric filters and wet scrubbing systems to meet federal MACT standards for lead-acid battery manufacturing facilities by July 16, 2008. In an October 30, 2014, letter to TDEC, Exide Technologies surrendered its air permits for the Facility and noted that the lead oxide and lead acid-battery production process equipment had been decommissioned and largely removed from the site. *See* Appendix F of the State's submittal. EPA considers the emissions reductions from the Exide Facility to be permanent and enforceable.

Criteria (4)—The Tennessee Portion of the Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. *See* CAA section 107(d)(3)(E)(iv). In conjunction with its request to redesignate the Tennessee portion of the Bristol Area to attainment for the 2008 lead NAAQS, TDEC submitted a SIP revision to provide for maintenance of the 2008 lead NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA believes that this maintenance plan meets the requirements for approval under section 175A of the CAA.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures as EPA deems necessary to assure prompt correction of any future 2008 lead violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed more fully below, EPA has preliminarily determined that Tennessee's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Tennessee SIP.

b. Attainment Emissions Inventory

As noted earlier, EPA previously determined that the Bristol Area attained the 2008 lead NAAQS based on monitoring data for the 3-year period from 2009–2011. Today, EPA is proposing to determine that the Bristol Area continues to attain the 2008 lead NAAQS. In its maintenance plan, the State selected 2010 as the base year and 2012 as the attainment emission inventory year. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 2008 lead NAAQS. Tennessee began development of the attainment inventory by first generating a baseline emissions inventory for the Bristol Area. As noted above, the year 2010 was chosen as the base year for developing a comprehensive emissions inventory for lead. To evaluate maintenance through 2025, Tennessee prepared emissions projections for the years 2015 and 2025.

Descriptions of how Tennessee developed the emissions inventory are located in the Appendix D of the July 15, 2015, submittal, which can be found in the docket for this action. The Exide Facility is the only point source of lead emissions within the Area. The State calculated lead emissions from Exide Facility operations using data collected through stack tests and the application of emissions factors. Tennessee obtained the area source category inventory from EPA's 2011 NEI ver.2 database. To estimate lead emissions from area sources in the Bristol Area, Tennessee apportioned the county-level lead emissions from area sources based on population and determined that lead emissions from area sources total approximately 0.0001 tpy in the Area. The State assumed that these area source emissions remain constant throughout the maintenance period (*i.e.*, 2010 through 2025). Tennessee determined that there are no sources of lead emissions in the Area from non-road and on-road sources based on EPA's 2008 NEI ver.2 database. Table 2, below, identifies base year emissions, attainment year emissions and projected emissions for 2010, 2012, 2015, and 2025.

c. Maintenance Demonstration

The maintenance plan associated with the redesignation request includes a maintenance demonstration that:

(i) Shows compliance with and maintenance of the 2008 lead NAAQS by providing information to support the demonstration that current and future emissions of lead remain at or below 2012 emissions levels.

(ii) Uses 2012 as the attainment year and includes future emissions inventory projections for 2015 and 2025.

(iii) Identifies an "out year" at least 10 years after the time necessary for EPA to review and approve the maintenance plan.

(iv) Provides actual (2010 and 2012) and projected emissions inventories, in tons per year (tpy), for the Bristol Area, as shown in Table 2, below.

TABLE 2—ACTUAL AND PROJECTED ANNUAL LEAD EMISSIONS (tpy) FOR THE BRISTOL AREA[11]

2010 Base year	2012 Attainment year	2015 Interim year	2025 Maintenance year
0.7	0.5	0.02	0.02

In situations where local emissions are the primary contributor to nonattainment, such as the Bristol Area, if the future projected emissions in the nonattainment area remain at or below the baseline emissions in the nonattainment area, then the related ambient air quality standards should not be exceeded in the future. Tennessee has projected emissions as described previously and determined that emissions in the Tennessee portion of the Bristol Area will remain below those in the attainment year inventory for the duration of the maintenance plan.

While the maintenance plan projects maintenance of the 2008 lead NAAQS through 2025, EPA believes that the Bristol Area will continue to maintain the standard at least through the year 2026 because the only point source of lead emissions in the Area has permanently shut down; the design values for the Area beginning in 2008–2010 have been well below the NAAQS standard of 0.15 $\mu g/m^3$; and lead emissions from all source categories are projected to be approximately one order of magnitude below the NAAQS in 2025.

d. Monitoring Network

There are currently four monitors measuring ambient air lead concentrations in the Bristol Area. However, as noted above, only the monitor operated by TDEC meets the requirements of 40 CFR part 58. Therefore, only data from this monitor can be used to evaluate compliance with the NAAQS. TDEC has committed to continue operation of its lead monitor in the Bristol Area in compliance with 40 CFR part 58 and has thus addressed the requirement for monitoring. EPA approved Tennessee's monitoring plan on October 26, 2015.

e. Verification of Continued Attainment

Tennessee has the legal authority to enforce and implement the maintenance plan for the Area. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future lead attainment problems.

Large stationary sources are required to submit an emissions inventory annually to TDEC. TDEC prepares a new periodic inventory for all lead sources every three years. This lead inventory will be prepared for future years as necessary to comply with the inventory reporting requirements established in the CFR. Emissions information will be compared to the 2010 base year and the 2025 projected maintenance year inventory to assess emission trends, as necessary, and to assure continued compliance with the lead standard. Additionally, under the Air Emissions Reporting Requirements (AERR), TDEC is required to develop a comprehensive, annual, statewide emissions inventory every three years that is due twelve to eighteen months after the completion of the inventory year. The AERR inventory years match the base year and final year of the inventory for the maintenance plan, and are within one or two years of the interim inventory years of the maintenance plan. Therefore, TDEC commits to compare the AERR inventories as they are developed with the 2010 and 2025 inventories in the maintenance plan to evaluate compliance with the 2008 lead NAAQS in this Area.

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[11] For 2015 and 2025, Tennessee included fugitive emissions of 0.01 tpy and area source emissions of 0.01 tpy (a conservative approach given that the State calculated area source emissions of 0.0001 tpy).

f. Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

In the July 15, 2015, submittal, Tennessee affirms that all programs instituted by the State and EPA will remain enforceable. The contingency plan included in the submittal includes a triggering mechanism to determine when contingency measures are needed and a process of developing and implementing appropriate control measures. A warning level response is triggered when a 3-month rolling average lead concentration of 0.135 μg/m^3 (*i.e.*, 90 percent of the standard) occurs within the Area. A warning level response will consist of a study to determine whether the lead value indicates a trend toward higher lead values. The study will evaluate whether the trend, if any, is likely to continue and, if so, what control measures are necessary to reverse the trend taking into consideration ease and timing for implementation as well as economic and social considerations. Implementation of necessary controls in response to a warning level response trigger will take place as expeditiously as possible, but in no event later than 12 months from the conclusion of the most recent calendar year.

An action level response is triggered whenever the 3-month rolling average concentration of 0.143 μg/m^3 (*i.e.*, 95 percent of the standard) or greater occurs within the Area. A violation of the standard (any 3-month rolling average over a 36-month rolling average period (3-calendar years plus the preceding 2 months) exceeds 0.15 μg/m^3) shall also prompt an action level response. In the event that the action level is triggered and is not found to be due to an exceptional event, malfunction, or noncompliance with a permit condition or rule requirement, TDEC in conjunction with the entity(ies) believed to be responsible for the exceedance will evaluate additional control measures needed to assure future attainment of the 2008 lead NAAQS. Measures that can be implemented in a short time will be selected in order to be in place within 18 months from the close of the calendar year that prompted the action level. TDEC will also consider the action level trigger and determine if additional, significant new regulations not currently included as part of the maintenance provisions will be implemented in a timely manner.

At least one of the following contingency measures will be adopted and implemented upon a triggering event:

- Improvements in applicable permitted control devices;
- Addition of secondary control devices or improvements in housekeeping and maintenance; and
- Other measures based on the cause of the elevated lead concentrations.

Any contingency measure implemented for an operating permitted source will require a compliance plan and expeditious compliance from the entity(ies) involved.

Based on the shutdown of the Exide Facility and the surrender of its operating permit, TDEC believes that the 2008 lead NAAQS can be achieved on a consistent basis in the Area. Because the Exide Facility has shut down, any possible exceedances of the lead NAAQS during any three month period after December 31, 2015 (the attainment date), are likely to be a result of fugitive emissions. The contingency measures discussed below will immediately take effect to offset any increase in air quality concentrations that are expected to result from emission increases due to the likelihood of fugitive soil dust disturbance and/or entrainment from the Exide Facility.

In the event of an exceedance, Exide will be required to conduct a twelve minute EPA Method 9 visible emissions reading on each lead source outlet by a certified reader every day, as well as a dye check on every filtration system that was controlling a lead source. These control measures will help to determine and detect the source of fugitive emissions so that the exceedances can be addressed immediately. Other contingency measures include restricting traffic to and from the facility and the daily application of wet suppression using a sprinkler frequency of 5 minutes every 30 minutes during daylight hours and 5 minutes every 60 minutes during nighttime hours twenty-four hours a day everyday which will serve to reduce fugitive dust emissions. Each of the contingency measures will continue for at least 90 days and remain in place until such time as TDEC has determined that they are no longer needed. In addition to the identified contingency measures, if an exceedance of the NAAQS occurs during any three month period after December 31, 2015 (the attainment date), within 120 days, the facility will submit an investigative study identifying the source(s) contributing to the exceedance. Exide will also develop and prepare a strategy to eliminate the likelihood of another exceedance. The 120-day review period will consist of a 30-day evaluation period immediately following a violation and then up to 90-day consultation period with the facility to determine the best course of action.

EPA has preliminarily concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. Therefore, EPA proposes to determine that the maintenance plan for the Area meets the requirements of section 175A of the CAA and proposes to incorporate the maintenance plan into the Tennessee SIP.

VI. Proposed Actions

EPA is taking four separate but related actions regarding the redesignation request and associated SIP revision for the Bristol Area.

First, EPA is proposing to determine that the State's Subpart 1 RACM determination for the Area meets the requirements of CAA section 172(c)(1) and to incorporate this RACM determination into the SIP.

Second, EPA is proposing to determine, based upon review of quality-assured and certified ambient monitoring data for the 2012–2014 period and upon review of preliminary data in AQS for 2015, that the Area continues to attain the 2008 lead NAAQS following EPA's determination of attainment.

Third, EPA proposing to approve the maintenance plan for the Area and to incorporate it into the SIP. As described above, the maintenance plan demonstrates that the Area will continue to maintain the 2008 lead NAAQS through 2026.

Fourth, EPA is proposing to approve Tennessee's request for redesignation of the Area from nonattainment to attainment for the 2008 lead NAAQS contingent upon final action approving the State's Subpart 1 RACM determination into the SIP. If finalized, approval of the redesignation request for the Bristol Area would change the official designation the portion of Sullivan County bounded by a 1.25 kilometer radius surrounding the UTM coordinates 4042923 meters E, 386267 meters N, Zone 17, which surrounds the Exide Facility, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 lead NAAQS.

VII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these proposed actions merely approve state law as meeting federal requirements and do not impose additional requirements beyond those imposed by State law. For that reason, these proposed actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 14, 2016.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2016–09600 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

LEGAL SERVICES CORPORATION

45 CFR Part 1627

Subgrants and Membership Fees or Dues

AGENCY: Legal Services Corporation.

ACTION: Further notice of proposed rulemaking.

SUMMARY: The Legal Services Corporation (LSC or Corporation) proposes to revise its regulations governing subgrants to third parties. LSC published a Notice of Proposed Rulemaking (NPRM) on April 20, 2015, 80 FR 21692. In response to the NPRM, LSC received comments from five organizations. The commenters requested that LSC reconsider some of the proposed changes to the regulations. LSC has considered the comments and now proposes additional revisions to the rules. In this Further Notice of Proposed Rulemaking (FNPRM), LSC seeks comments on five proposed revisions to the NPRM.

DATES: Comments must be submitted by June 10, 2016.

ADDRESSES: You may submit comments by any of the following methods:

Email: SubgrantRulemaking@lsc.gov. Include "Part 1627 FNPRM" in the subject line of the message.

Fax: (202) 337–6519, ATTN: Part 1627 FNPRM.

Mail: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007, ATTN: Part 1627 FNPRM.

Hand Delivery/Courier: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007, ATTN: Part 1627 FNPRM.

Instructions: Electronic submissions are preferred via email with attachments in Acrobat PDF format. LSC will not consider written comments received after the end of the comment period.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007, (202) 295–1563 (phone), (202) 337–6519 (fax), *sdavis@lsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

LSC provided a more complete history of this rulemaking in the April 20, 2015 NPRM. 80 FR 21692, Apr. 20, 2015. In brief, LSC initiated this rulemaking to address an issue identified by LSC's Office of Inspector General (OIG) through an audit of the Corporation's Technology Initiative

Grant (TIG) program. In its audit report, OIG disagreed with LSC management's (Management) interpretation and application of the rules governing subgrants and transfers of LSC funds because "[t]he subgrant rule appears to have been written with the LSC's principal legal service grants in mind, such that ordinarily, programmatic activities consist of the provision of legal services, and business services can easily be classified as ancillary. This division is not as easy to make in the case of TIG grants, and the rule does not seem to have anticipated this problem." Audit of Legal Services Corporation's Technology Initiative Grant Program, Report No. AU–11–01, at 42, Dec. 2010.

LSC initiated this rulemaking in 2012 to resolve the conflict of opinions. In 2015, Management proposed expanding this rulemaking to update these rules more comprehensively. On April 12, 2015, the Operations and Regulations Committee (Committee) of the Board voted to recommend that the Board approve publication of an NPRM in the **Federal Register** for notice and comment. On April 14, 2015, the Board accepted the Committee's recommendation and approved publication of the NPRM. The NPRM was published in the **Federal Register** on April 20, 2015, with a comment closing date of May 20, 2015. 80 FR 21692, Apr. 20, 2015. After receiving a request to extend the comment period, LSC gave interested parties an additional 21 days to respond to the NPRM. 80 FR 29600, May 22, 2015.

II. Request for Comments

LSC received five comments during the comment period. One LSC-funding recipient, Northwest Justice Project (NJP), and one non-LSC recipient, Metro Volunteer Lawyers (MVL), each submitted comments. The other three comments came from OIG, the National Legal Aid and Defender Association, through its Civil Policy Group and its Regulations and Policy Committee (NLADA), and the American Bar Association's Standing Committee on Legal Aid and Indigent Defense (SCLAID). In response to the comments received, LSC is considering several revisions to the proposed rule, including the ones described in this FNPRM.

On April 18, 2016, the Committee authorized publication of this FNPRM in the **Federal Register**. This FNPRM is limited to soliciting additional comment on the proposed changes described herein. Commenters need not reiterate or resubmit comments in response to this supplemental notice that they previously submitted relating to these matters or other aspects of the proposed rule. LSC will consider all public comments submitted pursuant to the NPRM published on April 20, 2015, and in response to this FNPRM, when drafting the final rule.

Proposed Change 1: Removing the Proposed Definition of "Programmatic"

The main purpose of this rulemaking is to clarify that part 1627 applies only to third-party awards made by a recipient for the provision of legal assistance.[1] The current rule defines *subrecipient,* in relevant part, as an entity that accepts Corporation funds from a recipient under a grant contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient's programmatic activities. 45 CFR 1627.2(b)(1). LSC proposed simplifying the definition of *subrecipient* and adding a definition of the term *programmatic* that included an explicit reference to the LSC Act's definition of legal assistance:

> *Programmatic* means activities or functions carried out to provide legal assistance, as defined in § 1002 of the LSC Act, 42 U.S.C. 2996a(5). Programmatic activities do not include the provision of goods or services by vendors or consultants in the normal course of business that the recipient would not be expected to provide itself.

80 FR 21692, 21694, Apr. 20, 2015. LSC proposed this definition to clearly limit the term *programmatic* to those activities in which the subrecipient essentially stands in the recipient's shoes to provide legal assistance.

NLADA and NJP both objected to the proposed definition. NLADA called the definition:

> ambiguous as to what activities which involve the provision of legal services to eligible clients fall within LSC's definition of programmatic in order to be considered a subgrant rather than a procurement contract for goods or services. . . . The proposed definition is broad enough to encompass activities and services that do not involve the direct provision of legal services to eligible clients.

NJP similarly stated that it "reads the definition of 'programmatic' in subsection (b) as too broad and inconsistent for the purposes it appears intended to achieve." Both organizations commented that the definition could be read to include transactions such as leasing office space. NJP further read the definition as potentially including the payment of bar dues or travel reimbursements to staff, and "providing fee-for-service contracts to lawyers or legal organizations that provide ongoing expertise in support of recipients' delivery of legal assistance, none of which are 'vendors or consultants.'"

Both commenters recommended that LSC replace the phrase "activities or functions carried out to provide legal assistance" with "the delivery of legal assistance to eligible clients." They both also recommended excluding "activities conducted by entities not directly involved in the delivery of legal assistance to eligible clients" from the definition. Finally, NLADA suggested that LSC expand the definition of *programmatic* to include "the provision of services under a special LSC grant project."

LSC agrees that its proposed definition of the term *programmatic* creates more problems than it solves. Commenters identified several ambiguities with the proposed definition and suggested solutions, but LSC determined that the potential solutions themselves created problems. For example, both NLADA and NJP stated that LSC's proposed definition was too broad and unclear, so both organizations offered language they believe would clarify that *programmatic* means only the delivery of legal assistance to eligible clients. Both NLADA's and NJP's suggested language, however, would narrow the definition beyond what LSC intended.

Additionally, both NLADA and NJP would exclude "activities conducted by entities not directly involved in the delivery of legal assistance to eligible clients." It is unclear whether they meant entities not directly involved in the recipient's delivery of legal assistance to eligible clients or not directly involved in the delivery of legal assistance at all. LSC did not intend to limit the types of organizations with which recipients may contract. Rather, the changes to the rule focus on the nature of the work that is the subject of the third-party agreement.

NLADA's proposal to include "provision of services under a special LSC grant project" in the definition of *programmatic* also appears to be inconsistent with LSC's intent. The proposed rule emphasizes the nature of the activity funded, rather than the method of funding. For example, if

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[1] The LSC Act defines "legal assistance" as "the provision of any legal services consistent with the purposes and provisions of this subchapter." 42 U.S.C. 2996a(5). LSC incorporated that definition at 45 CFR 1600.1, and that definition applies to part 1627. In contrast, LSC has defined the term "legal assistance" more narrowly in other contexts to mean legal analysis tailored to a client's particular issue as opposed to "legal information" that does not involve the application of law to a person's specific problem. 45 CFR 1614.3(e) and (f); LSC Case Service Report Handbook, p. 3 (2008, as amended 2011).

"special LSC grant project" includes TIG awards or disaster relief grants, then "the provision of services under a special LSC grant project" could include pure technology developments or construction activities paid for using those grant funds. LSC intends to exclude from the rule those types of activities when conducted by a third party using LSC funds. By contrast, awards to carry out legal services activities would still be included in the rule, even though the award is made through a TIG.

Finally, NJP's inclusion of payments to experts "in support of recipients' delivery of legal assistance" suggests that the changes to the scope of the rule may not have been clear. LSC intended to limit the application of the subgrant rule to only those situations in which recipients provide funds to third parties to carry out legal assistance activities that recipients would otherwise be expected to provide. This limitation necessarily excludes contracts with experts who provide a service to recipients, whether the service is preparing the organization's taxes, developing software for an online intake system, or providing a recipient with technical expertise on a case.

LSC has found it difficult to redefine *programmatic* with a degree of precision sufficient to give grantees clear guidance about the term's meaning. LSC determined that the outer boundaries of the term were the restrictive concept of "direct provision of legal assistance and legal information to clients" and the comprehensive concept of "anything that supports the delivery of legal assistance and legal information to clients," but could not develop a clear statement of where the line between programmatic and non-programmatic activities lay. LSC analyzed fact patterns using the five subgrant factors in the Uniform Guidance, 2 CFR 200.330. LSC intends to adopt this five-factor analysis in part 1627. LSC determined that the guidance provided by the factors is adequate to assess whether a particular arrangement with a third party should be considered a subgrant or a procurement contract. Including the term *programmatic* did not improve the factors' utility.

In this FNPRM, LSC proposes to remove the proposed definition of *programmatic* in § 1627.2 and to remove the term from the list of factors in proposed § 1627.3(b)(2). In its place, LSC proposes to define the term *procurement contract* in § 1627.2(b). LSC proposes to define and use this term for two reasons. The first is to highlight the distinction between subgrants, which involve provision of legal assistance, and procurement contracts, which are agreements to purchase goods or services that a recipient needs to carry out its LSC grant. The second is that LSC anticipates incorporating Uniform Guidance principles applicable to procurement contracts into part 1630 and the Property Acquisition and Management Manual (PAMM) through an ongoing rulemaking.

Proposed Change 2: Allowing Recipients To Use Property or Services Acquired in Whole or in Part With LSC Funds as Support for a Subgrant

In the NPRM, LSC proposed to require that recipients support subgrant activities only with funds, rather than allowing for in-kind provision of property and services. 80 FR 21692, 21696, Apr. 20, 2015. With the exception of OIG, all commenters opposed the proposal. NLADA, NJP, MVL, and SCLAID all expressed concern that adopting this change would jeopardize longstanding private attorney involvement (PAI) arrangements between LSC recipients and bar associations or other legal aid providers because it would impose additional and unnecessary administrative burdens on both parties. They also opined that the proposal conflicts with the PAI rule, which explicitly allows recipients to support private attorneys by providing them with training, technical assistance, access to recipient facilities, and use of recipient libraries and other resources. 45 CFR 1614.4(b)(3). Their observations differed in some respects, but they all contended that the proposal had significant flaws.

NLADA "urge[d] LSC to carefully consider the possible adverse consequences the framework set out in [proposed § 1627.3(c)] may have on the ability of LSC funded programs to effectively carry out their mission to promote equal access to justice and provide high-quality civil legal assistance to low-income Americans." They viewed the proposed rule as placing a "blanket prohibition on the provision of goods and services by recipients, that are in part or fully funded by LSC, to support an agreement with a third party to provide programmatic services." If this is LSC's intent, they continued,

> a number of LSC funded programs would be prevented from using one of their most valuable assets—property they have invested in to provide economical office space for their operations. In a time of severe fiscal constraints, this non-monetary asset could be used in innovative ways to partner with community organizations, particularly pro bono programs, to enhance the availability of legal services for people who are poor and in need of legal services.

They concluded their discussion of this issue by expressing their understanding that LSC must be able to ensure that recipients spend their LSC funding only on permissible activities. NLADA urged LSC to consider alternatives that "will not sever existing relationships or stifle further development based on in kind exchanges of goods and services funded in part or wholly by LSC."

MVL quoted NLADA's response at length in its letter objecting to this proposal. MVL provided a detailed description of their relationship with Colorado Legal Services (CLS):

> Colorado Legal Services provides support to MVL's mission through office space and intake personnel. CLS provides an in-kind donation of office space to house MVL's Executive Director, Family Law Court Program Coordinator, Legal Services Coordinator, Rovira Scholar (a fellowship position funded by a private benefactor), and the Program Assistant. Additionally, nearly all the cases that MVL handles are filtered first through CLS's intake team. CLS's intake team gathers essential information on the legal issues of prospective clients and passes that information to MVL to refer out to volunteer attorneys.

MVL stated that a "major impact of the proposed rule would be increased costs of administration" to both it and CLS. It also pointed out that the rule could impact organizations with similar arrangements by limiting or prohibiting the receipt of in-kind services to assist and alleviate costs for both organizations; maintaining proximity to and continuity with the referral source; maintaining flexibility to serve its community; and "contending with LSC regulations contrary to organizational missions, objectives, and administration." MVL concluded by urging LSC to reject the proposed rule.

SCLAID expressed its opinion that the proposal is inconsistent with the PAI rule. More specifically, SCLAID was concerned that "collaborative relationships that have been established with bar associations whose pro bono programs have been housed at a recipient's office for years could be greatly harmed by requiring that the pro bono program now enter into a subgrant arrangement." SCLAID stated that requiring bar-sponsored pro bono programs to enter into a subgrant and return some of the subgrant funds to the recipient for rent would be "overly burdensome and unnecessary."

NJP criticized LSC's proposal as "seem[ing] to confuse cost allocation to PAI with the notion of a subgrant" and as creating "gross ambiguity" about whether recipients may provide in-kind support to private attorneys under § 1614.4(b)(3). Additionally, NJP noted that the language requiring subgrants to be supported with LSC funds is inconsistent with the PAI rule, which directs recipients to spend "an amount equal to at least twelve and one-half percent (12.5%) of the recipient's annualized Basic Field-General award" to PAI activities. 45 CFR 1614.2(a). NJP stated: "If the goal is to ensure that subgrants mean the payment of LSC funds to a third party to carry out legal assistance activities, the definition of 'subgrants' in proposed § 1627.2(d)(1) is adequate to accomplish this purpose. . . . Moreover, accounting for the use of LSC funds through auditing both subgrants and PAI cost allocations is adequate to ensure that LSC funds are spent consistent with governing statutes and regulations." NJP suggested that LSC could revise the definition of *subgrant* to more specifically reference the use of LSC funds and requested that LSC not adopt proposed § 1627.3(c), which limits subgrant funding to LSC funds.

Upon consideration of the comments received, LSC agrees that requiring recipients to support subgrant activities only with funds is burdensome and inefficient. LSC understands that many recipients' most valuable assets may be property and did not intend to disrupt longstanding relationships with bar associations and other organizations that rely on exchanges of property for services to carry out their legal services programs. LSC remains concerned, however, about accountability for LSC-funded resources and ensuring that recipients are not using LSC-funded property or services to support organizations that engage in restricted activities. LSC proposes several revisions to part 1627 designed to allow recipients to continue providing other organizations LSC-funded office space and other property and services to carry out legal assistance activities consistent with the requirements of the LSC Act, LSC appropriations statutes, LSC's other governing statutes, and LSC's regulations.

First, LSC proposes to add a definition for the term property, which will encompass both real and personal property. Second, LSC proposes to remove proposed § 1627.3(c), which required recipients to support all subgrants with funds, rather than goods or services. Third, LSC proposes to redesignate the definition of the term *subgrant* as § 1627.2(e) and revise it to make clear that LSC funds and property or services acquired in whole or in part with LSC funds may be used to support a subgrant to a third party. Fourth, LSC proposes a new § 1627.4(a)(2), which explains how recipients are to assess the value of the goods or services to be awarded to a third party to carry out a subgrant. Fifth, LSC proposes to add language reflecting the decision to permit in-kind subgrants in paragraph (d)(2), which pertains to a recipient's responsibility to ensure its subrecipient's proper use of, accounting for, and auditing of LSC resources. Lastly, LSC proposes to add a new paragraph (f) setting forth the requirements for accounting for in-kind subgrants.

Proposed Change 3: Establishing a $15,000 Threshold at Which Recipients Must Seek LSC's Written Approval Before Awarding a Subgrant

While considering whether to allow recipients to use goods and services purchased in whole or in part with LSC funds as the basis for subgrants, LSC also considered whether recipients should be required to seek prior approval of all such subgrants or only when the value of the goods or services supporting the subgrant exceeded a certain threshold. LSC understands that recipients have a wide range of arrangements with other organizations that assist in the recipients' delivery of legal assistance to eligible clients. Arrangements on one end of the spectrum could be quite limited and informal—for example, giving office space on a one-time basis to another legal aid provider to hold a legal information session on applying for public benefits. An example of an arrangement involving a greater investment of recipient resources would be one in which the recipient provides office space and administrative support to a bar association conducting a debt collection clinic for four hours every other Saturday. An arrangement representing a significantly greater investment of recipient resources would be housing another non-profit organization that takes referrals from the recipient and places the referrals with the organization's own roster of volunteers. While LSC must ensure accountability for the use of property or services acquired in whole or in part with LSC funds in all of these arrangements, the oversight tools that LSC uses may vary based on the amount of LSC-funded resources involved.

Under existing part 1627, all subgrants are subject to the prior approval requirement, regardless of cost. In calendar year 2015, recipients entered into 77 subgrants. Fifteen of the subgrants were for less than $10,000, with the smallest being for $2,000. Ten of the 77 subgrants originating in calendar year 2015 exceeded $100,000. LSC understands that recipients spend significant amounts of time and resources preparing subgrant applications for LSC's approval. LSC estimates that LSC itself spends between 10 and 20 work hours reviewing each subgrant application, with the time spent on the application varying based on the quality and complexity of the application and the necessity of involving several LSC offices in the review. LSC determined that, on balance, the burdens of prior approval on both sides do not outweigh the benefits of the increased oversight for subgrants costing $15,000 or more. Consequently, LSC proposes to redesignate paragraph (a) from the NPRM as paragraph (b) and introduce a new paragraph (a) establishing the thresholds for prior approval of subgrants.

LSC wishes to emphasize two points about the proposed prior approval threshold. The first is that all awards qualifying as subgrants under § 1627.3 are subject to 45 CFR part 1630 and the restrictions set forth at proposed § 1627.5. Although subgrants for less than $15,000 will no longer be subject to the prior approval requirement, they continue to be governed by part 1630 and § 1627.5. The second point is that judicare arrangements and contracts with private attorneys to provide legal assistance to recipients' clients are not subject to the proposed prior approval threshold in § 1627.4(a). LSC's longstanding policy, reflected in the NPRM, has been to consider such awards subgrants only when the cost of such awards exceeds $25,000. 80 FR 21692, 21695, Apr. 20, 2015. Although LSC sought comment in the NPRM about whether the threshold should be changed, LSC did not intend to change its policy toward these awards. Consequently, LSC will continue to consider judicare arrangements and contracts with private attorneys to provide legal assistance to a recipient's clients as subgrants only when such arrangements exceed the threshold stated in § 1627.2(e)(2) for such awards, which LSC proposed in the NPRM to set at $60,000. All subgrants defined in § 1627.2(e)(2) will require prior approval, consistent with LSC's longstanding policy.

In paragraph (a), LSC proposes to set the prior approval threshold at $15,000 for both cash and in-kind subgrants. LSC believes this amount represents a significant enough investment of LSC funding or LSC-funded property or services that LSC should have increased oversight over the award. In paragraph (a)(2)(i), LSC proposes to require recipients to seek prior approval for subgrants when either the fair market value or the actual cost to the recipient of the property or service that supports the subgrant exceeds $15,000. LSC also proposes to require recipients to obtain independent property appraisals to assess the fair market value of real property that it contributes to a subgrant. Because LSC believes that $15,000 represents the amount at which it should have increased oversight of subgrants, LSC wants recipients to evaluate the value of the asset being exchanged based on both the fair market value and their internal cost to determine whether an amount that represents $15,000 or more of LSC funds is being given to a third party to carry out legal assistance activities. In paragraph (a)(2)(ii), LSC proposes to adopt language from the Uniform Guidance that requires recipients to document and support the valuation of property or services acquired in whole or in part with LSC funds by the same methods used internally for its other in-kind valuations.

LSC proposes a technical changes to § 1627.4(b) to reflect its decision to allow in-kind subgrants. In paragraph (b), LSC proposes to insert language stating that for all subgrants exceeding the $15,000 threshold, recipients must submit applications to LSC for prior written approval.

Proposed Change 4: Notifying Recipients of Decisions on Requests for Prior Approval of Subgrants

In the NPRM, LSC proposed to revise the rules governing the subgrant approval process. In paragraph (a), LSC proposed to link the subgrant approval process for Basic Field Grants more closely to the annual grant competition process. LSC also proposed to formalize the procedures for recipients seeking to make subgrants under LSC's special grant programs and those who need to make subgrants in the middle of a funding year. LSC also proposed to eliminate the provision deeming subgrants approved if LSC does not respond within the 45-day period[2] because LSC believed that the provision was both unnecessary to ensure timely responses from LSC and reflective of poor grants management policy.

NLADA objected to LSC's proposal. NLADA stated that the proposal "leaves programs in a state of fiscal uncertainty as to subgrant agreements," and recommended leaving the provision in the rule to "preserve[] an important backstop for recipients and subrecipients who depend on LSC-funding and who, without hearing in a timely fashion from LSC, may plan a budget as if the funding has been approved." NLADA further argued that "it is important in keeping with LSC's focus on uniformity and consistent application of rules and regulations that all parties bear equitable burdens with regard to meeting LSC statutory and regulatory requirements."

LSC disagrees with NLADA's recommendation to leave the existing rule in place. NLADA's comments do not reflect the greater assurance of a timely response provided by the consolidation of the Basic Field Grant competition and subgrant approval processes. Nor do they acknowledge that responsible grants management practices do not permit expending or allowing the expenditure of funds without the approval of the funding agency.

Although it is not binding on LSC, we look to the prior approval provisions of 2 CFR part 200 for guidance. The Uniform Guidance describes certain types of costs for which agencies may require prior written approval. 2 CFR 200.308. Grantees must obtain prior approval before incurring any of the listed costs, unless the awarding agency waives the requirement. *Id.* 200.308(d). Section 200.308(i) of the Uniform Guidance requires Federal agencies to respond to a request for prior approval within 30 days of receipt. *Id.* 200.308(i). If a decision is still pending at the end of the 30-day period, the agency must advise the requester in writing of the date by which the requester can expect a decision. *Id.* The Uniform Guidance does not include a provision deeming a request approved based on agency inaction.

LSC considered four options for responding to NLADA's comments. The first was to retain the language proposed in the NPRM. The second was to reinstate the existing rule in its entirety. The third was to reinstate the 45-day limit, but include a provision stating that if LSC does not respond, the subgrant is deemed denied. The last option was to include either a waiver provision or a notice provision similar to the ones provided in the Uniform Guidance.

LSC determined that waiving approval for subgrants was not an appropriate solution. LSC must exercise appropriate oversight over recipients' use of its funds, particularly when the recipient proposes to give a significant amount of funds to a third party to carry out legal assistance activities. LSC did not believe that it would be acting as a responsible steward of appropriated funds if it allowed recipients to make subgrants above the proposed $15,000 threshold amount without LSC's having approved the proposal. Nor did LSC believe that retaining the current rule demonstrates appropriate grants management policy because it would allow a recipient to devote a significant amount of LSC-funded resources to a subgrant absent LSC's explicit approval. LSC also did not think that restoring the 45-day time frame for approving subgrants with a provision deeming the subgrant denied, rather than approved, was a proper solution. This solution seemed unnecessarily negative and uninformative because it would leave a recipient wondering if its proposal was flawed and LSC simply had not told the recipient what it needed to do to fix the proposal or if LSC had reviewed the proposal at all.

LSC proposes to respond to NLADA's comments by adopting a notice provision similar to the one used by OMB in the Uniform Guidance. LSC proposes to include in the notice described in paragraph (b) a statement that if LSC has not responded to a recipient's request for approval of a subgrant under paragraph (b)(2) or (b)(3) within the number of days specified in the notice, LSC will inform the recipient in writing of the date when the recipient may expect the decision. The notice will be given only for subgrant approvals requested as part of a special grant or during the mid-year grant process. LSC does not propose to include a similar provision for subgrant approvals requested during the Basic Field Grant competition process because the regulation already includes notification deadlines. According to proposed § 1627.4(a)(1)(ii), LSC will inform a recipient whether LSC has approved, denied, or is suggesting modifications to the subgrant at or about the same time as LSC informs the recipient of its decision on the recipient's application for Basic Field Grant funding. 80 FR 21692, 21699, Apr. 20, 2015.

Proposed Change 5: Adopting a Flexible Timekeeping Requirement

In the NPRM, LSC proposed to transfer existing 45 CFR 1610.7, which contains the requirements applicable to transfers of LSC funds, to part 1627 and redesignate it as § 1627.5. LSC also proposed to revise the existing timekeeping requirement in § 1610.7(c) to adopt the timekeeping standards applicable to recipients in part 1635. LSC proposed this requirement to provide a consistent standard for recipients and subrecipients alike. LSC specifically sought comment on this proposal because LSC understood that some subrecipients, particularly smaller legal services programs, may have difficulty complying with the requirement. NJP and NLADA both objected to LSC's proposal to require all subrecipients to comply with part 1635's timekeeping requirements. OIG supported the proposal.

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[2] Existing § 1627.3(a)(2) states that if LSC fails to act on the subgrant proposal within 45 days of submission, the recipient "shall notify the Corporation of this failure" and gives LSC seven additional days to respond to the proposal. The subgrant is deemed approved if LSC fails to respond within the additional seven days. For ease of reference, we refer to the entire § 1627.3(a)(2) period as "the 45-day period."

NJP opposed the proposal for two reasons. First, NJP argued that "private attorney subrecipients must sufficiently document their time spent on recipient client activities to justify billings and payment under a fee-for-service contract." NJP opined that because private attorney subrecipients have their own timekeeping systems, there is no need for them to develop a timekeeping system that complies with part 1635. Second, NJP argued that private attorneys would likely be both unwilling to allocate time to LSC-defined categories of cases, matters, and supporting activities and unwilling to agree to make their personal time records and timekeeping systems subject to examination by auditors and LSC representatives. NJP asserted that requiring private attorneys to make their private records available to LSC auditors and reviewers would "create a significant disincentive" for private attorneys to participate in judicare or other fee-for-service arrangements.

NLADA objected to the proposal as a burdensome, one-size-fits-all approach contrary to LSC's interests in maximizing grantees' efficiency and effectiveness and encouraging collaborations with other organizations. NLADA asserted that "[i]mposing one standard time keeping requirement for all subrecipients, who maintain accountability with their own timekeeping system, is counter-productive and will harm recipient's [sic] ability to maintain relationships with subrecipients who are unable or unwilling to conform their own timekeeping system to LSC requirements." NLADA urged LSC to adopt a "flexible option" that would ensure accountability for the use of LSC funds without imposing burdensome requirements on subrecipients of LSC funds.

LSC understands NLADA's and NJP's concerns about the impact of the proposed rule on subrecipients that have their own timekeeping systems in place. LSC agrees that requiring such subrecipients to comply with LSC's particular timekeeping requirements may not be necessary to ensure that time subrecipients spend providing legal assistance and legal information is accounted for appropriately. Regardless of whether a subrecipient already has a timekeeping system in place, LSC believes that some level of timekeeping by either the subrecipient or the recipient is needed.

LSC considered three options for responding to the comments. The first was to keep the proposed language without change. The second was to draft a rule providing minimum standards for timekeeping that LSC believes would provide it with the information it needs to ensure that subgrant funds are properly accounted for, but that does not prescribe how the recipient or subrecipient keeps time. The third option was to adopt part 1635-compliant timekeeping as the default, but to allow recipients to seek approval from LSC for an alternate timekeeping method that will ensure accountability for the use of subgrant funds. This option was similar to language LSC proposed deleting from existing § 1627.3(c) that authorized recipients and subrecipients to propose alternative auditing methods. LSC proposed deleting that language simply because it had never been used, rather than because it was ineffective.

LSC proposes adopting the second option. In paragraph (c), LSC proposes requiring that recipients be able to show how much time subrecipient attorneys and paralegals spent on cases and matters and aggregate information on pending and closed cases by legal problem type. LSC does not propose to require, however, that the subrecipient collect the information or otherwise dictate how the recipient and subrecipient collect and maintain the information. LSC proposes to leave those decisions to the recipient and subrecipient to negotiate as part of the subgrant agreement.

LSC proposes one technical change to § 1627.5(d) as proposed in the NPRM. To reflect LSC's decision to allow in-kind subgrants, LSC proposes to include language stating that the prohibitions and requirements of part 1610 apply only to the subgranted funds, goods, or services when the subgrant is for the sole purpose of funding private attorney involvement activities.

List of Subjects in 45 CFR Part 1627

Grant programs, Legal services.

For the reasons stated in the preamble, the Legal Services Corporation proposes to amend 45 CFR part 1627, as proposed to be amended at 80 FR 21692, April 20, 2015, as follows:

PART 1627—SUBGRANTS AND MEMBERSHIP FEES OR DUES

■ 1. The authority citation is revised to read as follows:

Authority: 42 U.S.C. 2996g(e).

■ 2. Amend § 1627.2 as proposed to be amended at 80 FR 21692, April 20, 2015 by:

■ a. Revising paragraph (b);

■ b. Redesignating paragraphs (c) and (d) as paragraphs (d) and (e), respectively, and revising them;

■ c. Adding a new paragraph (c); and

■ d. Designating the undesignated paragraph captioned "Subrecipient" as paragraph (f).

The revisions and additions read as follows:

§ 1627.2 Definitions.

* * * * *

(b) *Procurement contract* means an agreement between a recipient and a third party under which the recipient purchases property or services for the benefit of the recipient that does not qualify as a subgrant as defined in paragraph (d)(1) of this section.

(c) *Property* means real property or personal property.

(d) *Recipient* as used in this part means any recipient as defined in section 1002(6) of the Act and any grantee or contractor receiving funds from LSC under section 1006(a)(1)(B) of the Act.

(e)(1) *Subgrant* means an award of LSC funds or property or services purchased in whole or in part with LSC funds, from a recipient to a subrecipient for the subrecipient to carry out part of the recipient's legal assistance activities under the LSC grant, that has the characteristics set forth in § 1627.3(b).

(2) *Subgrant* includes judicare arrangements and contracts with private attorneys for the direct delivery of legal assistance under 45 CFR part 1614 only when the cost of the arrangement or contract exceeds $60,000.

* * * * *

■ 3. Amend § 1627.3 as proposed to be amended at 80 FR 21692, April 20, 2015 by revising paragraphs (a) and (b)(2), (3), and (5) to read as follows:

§ 1627.3 Characteristics of subgrants.

(a) In determining whether an agreement between a recipient and another entity should be considered a subgrant or a procurement contract, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed in paragraph (b) of this section may not be present in all cases, and the recipient must use judgment in classifying each agreement as a subgrant or a procurement contract. The recipient must make case-by-case determinations whether each agreement that it makes with another entity constitutes a subgrant or a procurement contract.

(b) Characteristics that support the classification of the agreement as a subgrant include when the other entity:

* * * * *

(2) Has its performance measured in relation to whether objectives of the LSC grant were met;

(3) Has responsibility for programmatic decision-making regarding the delivery of legal assistance under the recipient's LSC grant;

* * * * *

(5) In accordance with its agreement, uses LSC funds or property or services acquired in whole or in part with LSC funds, to carry out a program for a public purpose specified in LSC's governing statutes and regulations, as opposed to providing goods or services for the benefit of the recipient.

* * * * *

■ 4. Amend § 1627.4 as proposed to be amended at 80 FR 21692, April 20, 2015 by:

■ a. Redesignating paragraphs (a) through (e) as paragraphs (b) through (f), respectively;

■ b. Adding a new paragraph (a);

■ c. Revising the introductory text of newly redesignated paragraph (b);

■ b. Redesignating the newly redesignated paragraph (b)(5) as (b)(5)(i) and adding paragraph (b)(5)(ii);

■ c. Revising the newly redesignated paragraph (d)(2); and

■ d. Adding paragraph (g).

The revisions and additions read as follows:

§ 1627.4 Requirements for all subgrants.

(a) *Threshold.* (1) A recipient must obtain LSC's written approval prior to making a subgrant when the cost of the award is $15,000 or greater.

(2) *Valuation of in-kind subgrants.* (i) If either the actual cost to the recipient of the transferred property or service or the fair market value of the transferred property or service exceeds $15,000, the recipient must seek written approval from LSC prior to making a subgrant. If the asset transferred involves leased space, the fair market value of the office space must be determined by an independent property appraisal.

(ii) The valuation of the subgrant, either by fair market value or actual cost to the recipient of property or services, must be documented and to the extent feasible supported by the same methods used internally by the grantee.

(b) *Corporation approval of subgrants.* Recipients must submit all applications for subgrants exceeding the $15,000 threshold to LSC in writing for prior written approval. LSC will publish notice of the requirements concerning the format and contents of the application annually in the **Federal Register** and on LSC's Web site.

* * * * *

(5)

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(ii) If a subgrant did not require prior approval, and the recipient proposes a change that will cause the total value of the subgrant to exceed the threshold for prior approval, the recipient must obtain LSC's prior written approval before making the change.

* * * * *

(d) * * *

* * * * *

(2) The recipient must ensure that the subrecipient properly spends, accounts for, and audits funds or property or services acquired in whole or in part with LSC funds received through the subgrant.

* * * * *

(g) *Accounting for in-kind subgrants.* (1) The value of property or services provided by a recipient to a subrecipient through a subgrant is subject to the audit and financial requirements of the Audit Guide for Recipients and Auditors and the Accounting Guide for LSC Recipients. Subgrants involving in-kind exchanges of property or services may be separately disclosed and accounted for, and reported upon in the audited financial statements of a recipient. The relationship between the recipient and subrecipient will determine the proper method of financial reporting following generally accepted accounting principles.

(2) If accounting for in-kind subgrants is not practicable, a recipient may convert the subgrant to a cash payment and follow the accounting procedures in paragraph (d) of this section.

■ 5. Amend § 1627.5 as proposed to be amended at 80 FR 21692, April 20, 2015 by revising paragraphs (c) and (d) to read as follows:

§ 1627.5 Applicability of restrictions, timekeeping, and recipient priorities; private attorney involvement subgrants.

* * * * *

(c) *Timekeeping.* A recipient must account for how its subgrantees spend LSC funds. Accurate and contemporaneous time records must identify for each attorney and paralegal:

(1) Time spent on each case or matter by date and in increments not greater than one-quarter of an hour;

(2) The unique case name or identifier for each case;

(3) The category of action on which time was spent for each matter; and

(4) The legal problem type for each case or matter with a timekeeping system able to aggregate time record information on both closed and pending cases by legal problem type.

(d) *PAI subgrant.* (1) The prohibitions and requirements set forth in 45 CFR part 1610 apply *only* to the subgranted funds or property or services acquired in whole or in part with LSC funds when the subrecipient is a bar association, *pro bono* program, private attorney or law firm, or other entity that receives a subgrant for the sole purpose of funding private attorney involvement activities (PAI) pursuant to 45 CFR part 1614.

(2) Any funds or property or services acquired in whole or in part with LSC funds and used by a recipient as payment for a PAI subgrant are deemed LSC funds for purposes of this paragraph.

■ 6. Amend § 1627.6 as proposed to be amended at 80 FR 21692, April 20, 2015 by revising paragraph (b) to read as follows:

§ 1627.6 Subgrants to other recipients.

* * * * *

(b) The subrecipient must audit any funds or property or services acquired in whole or in part with LSC funds provided by the recipient under a subgrant in its annual audit and supply a copy of this audit to the recipient. The recipient must either submit the relevant part of this audit with its next annual audit or, if an audit has been recently submitted, submit it as an addendum to that recently submitted audit.

* * * * *

Dated: April 19, 2016.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2016–09384 Filed 4–25–16; 8:45 am]

BILLING CODE 7050–01–P

DEPARTMENT OF ENERGY

48 CFR Part 970

RIN 1991–AC03

Acquisition Regulation: Nondisplacement of Qualified Workers Under Service Contracts and Other Changes to the Contractor Purchasing System Clause

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and opportunity for comment.

SUMMARY: The Department of Energy (DOE) is proposing to amend the Department of Energy Acquisition Regulation (DEAR) to address the applicability of Executive Order 13495 as implemented by Federal Acquisition Regulation (FAR) subpart 22.12 to its management and operating contracts and subcontracts under such contracts. DOE is also proposing to increase dollar thresholds in its contractor purchasing system clause for management and operating contracts to conform to FAR subpart 28.1. Finally, DOE is revising the DEAR in accordance with a class deviation addressing Buy American Act non-availability determinations.

DATES: Written comments on the proposed rulemaking must be received on or before close of business May 26, 2016.

ADDRESSES: You may submit comments, identified by DEAR: Nondisplacement of Qualified Workers and RIN 1991–AC03, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email to: DEARrulemaking@hq.doe.gov* Include DEAR: Nondisplacement of Qualified Workers and RIN 1991–AC03 in the subject line of the message.
- *Mail to:* U.S. Department of Energy, Office of Acquisition Management, MA–611, 1000 Independence Avenue SW., Washington, DC 20585. Comments by email are encouraged.

FOR FURTHER INFORMATION CONTACT: Lawrence Butler at (202) 287–1945 or by email *lawrence.butler@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. Section-by-Section Analysis
III. Procedural Requirements
  A. Review Under Executive Orders 12866 and 13563.
  B. Review Under Executive Order 12988.
  C. Review Under the Regulatory Flexibility Act.
  D. Review Under the Paperwork Reduction Act.
  E. Review Under the National Environmental Policy Act.
  F. Review Under Executive Order 13132.
  G. Review Under the Unfunded Mandates Reform Act of 1995.
  H. Review Under the Treasury and General Government Appropriations Act, 1999.
  I. Review Under Executive Order 13211.
  J. Review Under the Treasury and General Government Appropriations Act, 2001.
  K. Approval by the Office of the Secretary of Energy.

I. Background

The Department of Energy Acquisition Regulation (DEAR) does not presently address the applicability of the new FAR subpart 22.12, Nondisplacement of Qualified Workers Under Service Contracts, and the associated Department of Labor regulations at title 29 of the Code of Federal Regulations, to subcontracts under DOE's management and operating contracts. This proposed rule clarifies that FAR subpart 22.12 applies to subcontracts under the Department's management and operating contracts. A management and operating contract requires a contractor to operate, maintain, and support a Government-owned or -controlled research, development, special production, or testing establishment which is devoted to a major program(s) of the contracting agency. Service subcontracts awarded by management and operating contractors, *e.g.*, contracts for routine, recurring maintenance, are subject to various labor laws implemented by FAR part 22.

Additionally, DEAR section 970.5244–1, Contractor purchasing system, paragraphs (f)(1) through (f)(3) do not presently reflect the applicable dollar threshold in FAR 28.102–2(b) and (c), so this proposed rule replaces the dollar amount in these paragraphs with reference to title 48 of the Code of Federal Regulations, sections 28.102–2(b) and (c), as appropriate.

Section 970.5244–1, paragraph (g) requires contractor purchasing systems on management and operating contracts to comply with the Buy American Act. Pursuant to a DEAR class deviation dated August 29, 2011, the proposed rule increases the dollar threshold in this paragraph from $100,000 to $500,000 for: (1) Determinations of individual item non-availability requiring the prior concurrence of the Head of Contracting Activity (HCA); and (2) HCA authorization of management and operating contractors with approved purchasing systems to make determinations of non-availability for individual items.

II. Section-by-Section Analysis

DOE proposes to amend the DEAR as follows:

1. Section 970.2212 is added to clarify that FAR subpart 22.12 is applicable to subcontracts of management and operation contractors.
2. Section 970.5244–1, paragraph (f) is revised to replace all dollar amounts with references to title 48 of the Code of Federal Regulations, sections 28.102–2(b) and (c), as appropriate.
3. Section 970.5244–1, paragraph (g) is revised to increase the dollar threshold from $100,000 to $500,000.
4. Section 970.5244–1, paragraph (x) is revised to add the clause prescribed in FAR 22.1207 as item (7).

III. Procedural Requirements

A. Review Under Executive Orders 12866 and 13563

Today's regulatory action has been determined to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this proposed rule was reviewed under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011 (76 FR 3281, January 21, 2011). Executive Order 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. DOE believes that today's proposed rule is consistent with these principles, including the requirement that, to the extent permitted by law, agencies adopt a regulation only upon a reasoned determination that its benefits justify its costs and, in choosing among alternative regulatory approaches, those approaches maximize net benefits.

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," (61 FR 4729, February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct, rather than a general standard, and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the United States Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or if it is unreasonable to meet one or more of them. DOE has completed the required review and determined that this proposed rule meets the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, which requires preparation of an initial regulatory flexibility analysis for any rule that must be proposed for public comment and which is likely to have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," (67 FR 53461, August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process (68 FR 7990). DOE has made its procedures and policies available on the Office of General Counsel's Web site at *http://www.gc.doe.gov.*

This proposed rule would not have a significant economic impact on small entities because it imposes no significant burdens. The proposed rule clarifies that FAR subpart 22.12 applies to subcontracts under the Department's management and operating (M&O) contracts. M&O subcontractors, including any small entities, who perform service contracts are currently required to follow the policies and procedures of FAR subpart 22.12. The proposed rule merely clarifies that M&O subcontractors are not exempt from the pre-existing policy. The other changes contained in the proposed rule update dollar thresholds to conform to the FAR or a DEAR class deviation. Those changes will result in fewer burdens to small entities because they raise the thresholds at which certain Buy American, bonds, and other financial protection requirements become applicable.

Accordingly, DOE certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities, and, therefore, no regulatory flexibility analysis is required and none has been prepared.

D. Review Under the Paperwork Reduction Act

This proposed rule does not impose a collection of information requirement subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Existing burdens associated with the collection of certain contractor data under the DEAR have been cleared under OMB control number 1910–4100.

E. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this proposed rule falls into a class of actions which would not individually or cumulatively have significant impact on the human environment, as determined by DOE's regulations (10 CFR part 1021, subpart D) implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this proposed rule is categorically excluded from NEPA review because the amendments to the DEAR are strictly procedural (categorical exclusion A6). Therefore, this proposed rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

F. Review Under Executive Order 13132

Executive Order 13132, 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive Order requires agencies to have an accountability process to ensure meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined the proposed rule and has determined that it does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

G. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires a Federal agency to perform a written assessment of costs and benefits of any rule imposing a Federal mandate with costs to State, local or tribal governments, or to the private sector, of $100 million or more. This rulemaking proposes changes that do not alter any substantive rights or obligations. This proposed rule does not impose any mandates.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires Federal agencies to issue a Family Policymaking Assessment for any rulemaking or policy that may affect family well-being. This proposed rulemaking will have no impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 13211

Executive Order 13211, Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use, (66 FR 28355, May 22, 2001) requires Federal agencies to prepare and submit to Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. This proposed rule is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

J. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Approval by the Office of the Secretary of Energy

Issuance of this proposed rule has been approved by the Office of the Secretary of Energy.

List of Subjects in 48 CFR Part 970

Government procurement.

Issued in Washington, DC on April 19, 2016.

Berta Schreiber,

Acting Senior Procurement Executive, Office of Acquisition Management, Department of Energy.

Joseph Waddell,

Senior Procurement Executive and Deputy Associate Administrator, National Nuclear Security Administration, Office of Acquisition Management.

For the reasons set out in the preamble, the Department of Energy is proposing to amend chapter 9 of title 48 of the Code of Federal Regulations as set forth below.

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

■ 1. The authority citation for part 970 continues to read as follows:

Authority: 42 U.S.C. 2201; 2282a; 2282b; 2282c; 42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq.*

■ 2. Add section 970.2212 to subpart 970.22 to read as follows:

970.2212 Nondisplacement of qualified workers.

48 CFR subpart 22.12 is applicable to subcontracts under the Department's management and operating contracts (see 970.5244–1(x)).

■ 3. Section 970.5244–1 is amended by:
■ a. Revising the clause date;
■ b. Revising the first sentence of paragraph (f)(1);
■ c. Revising paragraphs (f)(2) and (3) and (g); and
■ d. Adding paragraph (x)(7).

The revisions and additions read as follows:

970.5244–1 Contractor purchasing system.

* * * * *

Contractor Purchasing System (XXX 20xx)

* * * * *

(f) * * * (1) The Contractor shall require performance bonds in penal amounts as set forth in 48 CFR 28.102–2(b)(1) for all fixed-price and unit-priced construction subcontracts in excess of the amount set forth in 48 CFR 28.102–2(b). * * *

(2) For fixed-price, unit-priced and cost-reimbursement construction subcontracts in excess of the amount set forth in 48 CFR 28.102–2(b), a payment bond shall be obtained on Standard Form 25A modified to name the Contractor as well as the United States of America as obligees. The penal amounts shall be determined in accordance with 48 CFR 28.102–2(b)(2).

(3) For fixed-price, unit-priced and cost-reimbursement construction subcontracts in an amount falling within the range in 48 CFR 28.102–2(c), the Contractor shall select two or more of the payment protections in 48 CFR 28.102–1(b), giving particular consideration to the inclusion of an irrevocable letter of credit as one of the selected alternatives.

* * * * *

(g) *Buy American.* The Contractor shall comply with the provisions of the Buy American Act as reflected in 48 CFR 52.225–1 and 48 CFR 52.225–9. The Contractor shall forward determinations of non-availability of individual items to the DOE Contracting Officer for approval. Items in excess of $500,000 require the prior concurrence of the Head of Contracting Activity. If the Contractor has an approved purchasing system, the Head of the Contracting Activity may authorize the Contractor to make determinations of non-availability for individual items valued at $500,000 or less.

* * * * *

(x) * * *

* * * * *

(7) Nondisplacement of Qualified Workers clause prescribed in 48 CFR 22.1207.

* * * * *

[FR Doc. 2016–09688 Filed 4–25–16; 8:45 am]

BILLING CODE 6450–01–P

Notices

Federal Register
Vol. 81, No. 80
Tuesday, April 26, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–LPS–16–0016]

Request for Extension and Revision of a Currently Approved Information Collection for the Federal Seed Act Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval, from the Office of Management and Budget (OMB), for an extension and revision to the currently approved information collection of the Federal Seed Act Labeling and Enforcement.

DATES: Comments must be received by June 27, 2016.

ADDRESSES: Comments should either be submitted electronically at *www.regulations.gov,* or to Ernest L. Allen, Director, Seed Regulatory and Testing Division (SRTD), Livestock, Poultry, and Seed Program, AMS, USDA, 801 Summit Crossing Place, Suite C, Gastonia, NC 28054–2193; or by facsimile to (704) 852–4109. All comments should reference docket number AMS–LPS–16–0016 and note the date and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, online at *http://www.regulations.gov* and will be made available for public inspection at the above physical address during regular business hours.

FOR FUTHER INFORMATION CONTACT: Ernest L. Allen, SRTD, Livestock, Poultry, and Seed Program, AMS, USDA; Telephone: (704) 810–8871, or Email: *Ernest.Allen@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Federal Seed Act Program.

OMB Number: 0581–0026.

Expiration Date of Approval: August 31, 2016.

Type of Request: Request for extension of and revision of currently approved information collection.

Abstract: This information collection and these recordkeeping requirements are necessary to conduct the Federal Seed Act (FSA) (7 U.S.C. 1551 *et seq.*) program with respect to certain testing, labeling, and recordkeeping requirements for agricultural and vegetable seeds in interstate commerce. Regulations under the FSA are contained in 7 CFR part 201.

The FSA, Title II, is a truth-in-labeling law that regulates agricultural and vegetable planting seed in interstate commerce. Seed subject to the FSA must be labeled with certain quality information and Title II requires that information to be truthful. The FSA prohibits the interstate shipment of falsely advertised seed and seed containing noxious-weed seeds that are prohibited from sale in the State into which the seed is being shipped.

No unique forms are required for this information collection. The FSA requires seed in interstate commerce to be tested and labeled. Once seed enters a State, it must comply with the testing and labeling requirements of that State's seed law. The testing and labeling required by FSA nearly always satisfies the State's testing and labeling requirements. The receiving, sales, cleaning, testing, and labeling records required by FSA are also records that the shipper would normally keep in good business practice.

The information in this collection is the minimum information necessary to effectively carry out the enforcement of FSA. With the exception of the requirements for entering a new variety into a State seed certification program (set forth separately below), the information collection is entirely recordkeeping rather than reporting.

Seed Testing, Labeling, and Recordkeeping

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.69 hours per response.

Respondents: Interstate shippers and labelers of seed.

Estimated Number of Respondents: 3,157.

Estimated Number of Responses per Respondent: 3.25.

Estimated Total Annual Responses: 10,260.

Estimated Total Annual Burden on Respondents: 27,600 hours.

Eligibility Requirements for Certification of New Varieties and Recordkeeping

Estimate of Burden: Public reporting burden for this collection of information (eligibility for certification of new varieties) is estimated to average 2.42 hours per response.

Respondents: Entities seeking to enter new varieties into State seed certification programs.

Estimated Number of Respondents: 88.

Estimated Number of Responses per Respondent: 9.

Estimated Total Annual Responses: 792.

Estimated Total Annual Burden on Respondents: 1,917 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: April 20, 2016.

Elanor Starmer,

Administrator, Agricultural Marketing Service.

[FR Doc. 2016–09607 Filed 4–25–16; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FV–16–0025, SC–16–333]

Request for Extension and Revision of a Currently Approved Information Collection, OMB 0581–0125 Regulations Governing Inspection Certification of Fresh & Processed Fruits, Vegetables, & Other Products 7 CFR Part 51 and 52, and To Merge 0581–0292 Specialty Crops Inspection Order Forms into OMB 0581–0125

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of renewal and merge request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget (OMB) for an extension and revision to the currently approved information collection of 0581–0125 Regulations Governing Inspection Certification of Fresh & Processed Fruits, Vegetables, & Other Products 7 CFR part 51 and 52, and request approval to merge the previously approved, 0581–0292 Specialty Crops Inspection Division Order Forms into 0581–0125 Regulations Governing Inspection Certification of Fresh & Processed Fruits, Vegetables, & Other Products 7 CFR part 51 and 52. By this action, all services and related forms used to collect information will be in one collection with no duplicative burden.

DATES: Comments on this notice must be received by June 27, 2016 to be considered.

ADDRESSES: Interested persons are invited to submit comments concerning this notice. Comments should be submitted online at *www.regulations.gov* or sent to ToiAyna Thompson, U.S. Department of Agriculture (USDA), 1400 Independence Avenue SW., Stop 0247, Room 1543–S Washington, DC 20250–0250, or by facsimile to (202) 690–3824. All comments should reference the document number, and the date and page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, online at *http://www.regulations.gov* and will be made available for public inspection at the above physical address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Contact ToiAyna Thompson, Management Support Staff, Specialty Crops Inspection Division, Specialty Crops Program, U.S. Department of Agriculture, STOP 0247, 1400 Independence Avenue SW., Washington, DC 20250–0250; telephone: (202) 720–0867; FAX: (202) 690–3824; email *Toiayna.Thompson@ams.usda.gov;* or, Internet: *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION: With this request for an Extension and Revision of a Currently Approved Information Collection and a Merge Request, we are combining the totals for both collections in this renewal collection.

Title: Regulations Governing Inspection Certification of Fresh & Processed Fruits, Vegetables, & Other Products 7 CFR part 51 and 52.

OMB Number: 0581–0125.

Expiration Date of Approval: 3 years from approval.

Type of Request: Extension and Revision of a currently approved information collection.

Abstract: The Agricultural Marketing Act of 1946, (7 U.S.C. 1621–1627) as amended authorizes the Agricultural Marketing Service, Specialty Crops Inspection Division to provide inspection and certification of the quality and condition of agricultural products. The Specialty Crops Inspection Division provides a nationwide inspection, grading, and auditing service for fresh and processed fruits, vegetables and other products for shippers, importers, processors, sellers, buyers, and other financially interested parties on a user-fee basis. The use of services is voluntary and is made available only upon request or when specified by a special program or contract. Information is needed to carry out the inspection, grading, or auditing services. Such information includes; the name and location of the person or company requesting services; the type of inspection being requested; and information that will identify the product or type and scope of audit requested. Upon approval, AMS will request discontinuations of 0581–0292 from OMB. With this submission of renewal and merging of two collections that have been previously approved, the Division will be better able to efficiently manage the collection and prevent duplication of burden.

This is a request for renewal of OMB 0581–0125 and subsequent merger of 0581–0292 Specialty Crops Inspection Division Order Forms into 0581–0125 Regulations Governing Inspection Certification of Fresh & Processed Fruits, Vegetables, & Other Products 7 CFR part 51 and 52.

OMB 0581–0125 Regulations Governing Inspection, Certification of Fresh and Processed Fruits, Vegetables and Other Products 7 CFR Part 51 and 52

Estimate of Burden: Public reporting burden for this collection is estimated to average 0.15 hours per response.

Respondents: Business or other for-profit, nonprofit organization, farms or Federal, state, local or Tribal governments.

Estimated Number of Respondents: 10,108.

Estimated Total Annual Responses: 144,992.

Estimated Number of Responses per Respondent: 14.34.

Estimated Total Annual Burden on Respondents: 21,127.

OMB 0581–0292 Specialty Crops Inspection Division Order Forms

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .08 hours per response.

Respondents: Federal and State.

Estimated Number of Respondents: 49,892.

Estimated Total Annual Responses: 49,892.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 4,156.

OMB 0581–0292 Specialty Crops Inspection Division Order Forms Merged into OMB 0581–0125 Regulations Governing Inspection Certification of Fresh & Processed Fruits, Vegetables & Other Products 7 CFR Part 51 and 52

Estimated Total Annual Responses: 194,176.

Estimated Total Annual Burden on Respondents: 25,283.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical use; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to ToiAyna Thompson, Management Support Staff, Specialty Crops Inspection Division, Specialty Crops Program, U.S. Department of Agriculture, STOP 0247, 1400 Independence Avenue SW., Washington, DC 20250; telephone: (202) 720–0867; FAX: (202) 690–3824; or Internet: *http://www.regulations.gov.*

All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: April 20, 2016.

Elanor Starmer,

Administrator.

[FR Doc. 2016–09619 Filed 4–25–16; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Document No. AMS–TM–16–0030]

Transportation and Marketing Program; Notice of Extension and Request for Revision of a Currently Approved Information Collection and To Merge the Collections of 0581–0235 Farmers Market Promotion Program, 0581–0240 Federal-State Market Improvement Program, 0581–0248 Specialty Crop Block Grant Program-Farm Bill, Specialty Crop Multi-State Program, and 0581–0287 Local Food Promotion Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–20), this notice announces the Agricultural Marketing Service's (AMS) intention to request Office of Management and Budget approval of a revised information collection that combined four previously approved collections into a single information collection. AMS recently consolidated its grant programs into one Grants Division. Due to this consolidation, AMS intends to combine the following collections, 0581–0235 "Farmers Market Promotion Program," 0581–0240 "Federal-State Market Improvement Program," 0581–0248 "Specialty Crop Block Grant Program-Farm Bill," "Specialty Crop Multi-State Program," and 0581–0287 "Local Food Promotion Program." This revised collection will be retitled 0581–0240 "AMS Grant Programs," and increase efficiency among programs and reduce the burden on the public.

DATES: Comments on this notice must be received by June 27, 2016 to be assured of consideration.

ADDRESSES: AMS Transportation and Marketing Program, 1400 Independence Avenue SW., Stop 0264, Washington, DC 20250–0264.

FOR FURTHER INFORMATION CONTACT: Trista Etzig, Grants Division Director; Telephone: (202) 720–8356; Email: *Trista.Etzig@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: AMS Grant Programs.

OMB Number: 0581–0240.

Expiration Date of Approval: 9/30/2016.

Type of Request: Extension, revision, and consolidation of currently approved information collection.

Abstract: AMS grant programs (Farmers' Market and Local Food Promotion Program (FMLFPP), Specialty Crop Block Grant Program (SCBGP), Specialty Crop Multi-State Program (SCMP), and Federal-State Marketing Improvement Program (FSMIP)) are authorized pursuant to the Agricultural Marketing Act of 1946 (AMA) (7 U.S.C. 1621, *et seq.*) and the Farmer-to-Consumer Direct Marketing Act of 1976 (FCDMA) (7 U.S.C. 3001) and are implemented through the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Super Circular) (2 CFR 200). Recently, AMS consolidated the management of its grant programs into one Grants Division to streamline and standardize processes and procedures for the programs, which includes the need to consolidate the information collection requirements for each grant program.

The Farmers' Market Promotion Program (FMPP) and Local Food Promotion Program (LFPP) are components of the "Farmers' Market and Local Food Promotion Program (FMLFPP)." FMPP was created through an amendment of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3001–3006). The Agriculture Act of 2014 (Pub. L. 113–79) (2014 Farm Bill) further amended the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005) by expanding and renaming the FMPP to FMLFPP. For fiscal years 2014–2018, the 2014 Farm Bill provides $30 million in funding for the FMLFPP. On an annual basis, approximately $15 million will be made available for farmer-to-consumer direct marketing projects under the FMPP component of FMLFPP, and approximately $15 million will be made available for local and regional food business enterprise projects under the LFPP component of FMLFPP. The grants authorized by the FMPP are targeted to help improve and expand domestic farmers' markets, roadside stands, community-supported agriculture programs, agritourism activities, and other direct producer-to-consumer marketing opportunities. The grants authorized under the LFPP support the development and expansion of local and regional food business enterprises to increase domestic consumption of, and access to, locally and regionally produced agricultural products, and to develop new market opportunities for farm and ranch operations serving local markets.

The Specialty Crop Block Grant Program (SCBGP) operates pursuant to the authority of Section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note); amended by Section 10010 of the Agriculture Act of 2014 (2014 Farm Bill). Pursuant to 7 U.S.C. 1621 note, the Secretary of Agriculture has the authority to "make grants to States for each of the fiscal years 2014 through 2018 to be used by State departments of agriculture solely to enhance the competitiveness of specialty crops." The SCBGP works to increase the competitiveness of specialty crops. The 2014 Farm Bill made mandatory outlays for fiscal years 2014 through 2017 in the amount of $72.5 million, and $85 million in 2018. The Specialty Crop Multi-State Program (SCMP) also operates pursuant to the authority of Section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note); amended by Section 10010 of the Agriculture Act of 2014 (2014 Farm Bill). The Specialty Crop Competitiveness Act provides the Secretary authority to make available funds for "making grants to multistate projects." The 2014 Farm Bill made outlays available for fiscal years 2014 through 2018 in the amount of $1 million for the first year, and increasing by $1 million for each subsequent year so that $5 million will be available in 2018.

The Federal-State Marketing Improvement Program (FSMIP) operates pursuant to the authority of the AMA. Section 204(b) of the AMA (7 U.S.C. 1623(b)) authorizes the Secretary of Agriculture to make available funds to State Departments of Agriculture, State bureaus and departments of markets, State agricultural experiment stations, and other appropriate State agencies for cooperative projects in marketing services and in marketing research to effectuate the purposes of title II of the Agricultural Marketing Act of 1946. FSMIP provides matching funds on a competitive basis to assist eligible entities in exploring new market opportunities for U.S. food and agricultural products and to encourage research and innovation aimed at improving the efficiency and performance of the marketing system. AMS has been allocated approximately $1 million in fiscal years 2013, 2014, and 2015 for FSMIP; and it is anticipated that funding will remain at or near this level for fiscal years 2016 and 2017.

Because these are all voluntary programs, respondents request or apply for the specific grant program they select, and in doing so, they provide information. The Agency is the primary user of the information. The information collected is needed to certify that grant participants are complying with applicable program regulations, and the data collected is the minimum information necessary to effectively carry out the requirements of the program. The information collection requirements in this request are essential to carry out the intent of the AMA, to provide the respondents the type of service they request, and to administer the programs. The burden of the AMS Grant Programs is as follows:

Combined Burden for AMS Grant Programs

Estimate of Burden: 2.59.

Respondents: Agricultural Cooperatives, Agriculture Business Entities; Community Supported Agriculture Networks or Associations; Producer Networks or Associations; Local and Tribal Governments; Nonprofit Corporations; Public Benefit Corporations; Economic Development Corporations; Regional Farmers' Market Authorities; State departments of agriculture; State agricultural experiment stations; and other appropriate State Agencies.

Estimated Number of Respondents: 1,866.

Estimated Total Annual Responses: 20,230.

Estimated Number of Responses per Respondent: 10.84.

Estimated Total Annual Burden on Respondents: 52,413.11.

0581–0235: Farmers' Market Promotion Program

Estimate of Burden: 2.73.

Respondents: Agricultural Cooperatives, Producer Networks, or Producer Associations; Local Governments; Nonprofit Corporations; Public Benefit Corporations; Economic Development Corporations; Regional Farmers' Market Authorities; and Tribal Governments.

Estimated Number of Respondents: 750.

Estimated Total Annual Responses: 7,470.

Estimated Number of Responses per Respondent: 9.96.

Estimated Total Annual Burden on Respondents: 20,391.27.

0581–0240: Federal-State Market Improvement Program

Estimate of Burden: 2.29.

Respondents: State departments of agriculture; State agricultural experiment stations; and other appropriate State Agencies.

Estimated Number of Respondents: 70.

Estimated Total Annual Responses: 1,018.

Estimated Number of Responses per Respondent: 14.54.

Estimated Total Annual on Respondents: 2,328.01.

0581–0248: Specialty Crop Block Grant Program-Farm Bill

Estimate of Burden: 3.30.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 56.

Estimated Total Annual Responses: 616.

Estimated Number of Responses per Respondent: 11.

Estimated Total Annual Burden on Respondents: 2,030.

Specialty Crop Multi-State Program-New Segment of SCBGP

Estimate of Burden: 2.24.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 240.

Estimated Total Annual Responses: 2,906.

Estimated Number of Responses per Respondent: 12.11.

Estimated Total Annual Burden on Respondents: 6,522.56.

0581–0287: Local Food Promotion Program

Estimate of Burden: 2.57.

Respondents: Agricultural Cooperatives, Agriculture Business Entities; Community Supported Agriculture Networks or Associations; Producer Networks or Associations; Local and Tribal Governments; Nonprofit Corporations; Public Benefit Corporations; Economic Development Corporations; and Regional Farmers' Market Authorities.

Estimated Number of Respondents: 750.

Estimated Total Annual Responses: 8,220.

Estimated Number of Responses per Respondent: 10.96.

Estimated Total Annual Burden on Respondents: 21,141.27.

Comments are invited on: (1) Whether the new collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the new collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: April 20, 2016.

Elanor Starmer,

Administrator, Agricultural Marketing Service.

[FR Doc. 2016–09612 Filed 4–25–16; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–LPS–16–0023]

Request for an Extension and Revision of a Currently Approved Information Collection for the Seed Service Testing Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget (OMB) for an extension and revision of the currently approved information collection for the Seed Service Testing Program.

DATES: Comments received by June 27, 2016.

ADDRESSES: Comments should be submitted electronically at *http://*

www.regulations.gov or to Ernest L. Allen, Director, Seed Regulatory and Testing Division (SRTD), Livestock, Poultry, and Seed Program, AMS, USDA, 801 Summit Crossing Place, Suite C, Gastonia, NC 28054–2193, or by facsimile to (704) 852–4109. All comments should reference docket number AMS–LPS–16–0023 and note the date and page number of this issue in the **Federal Register**. All comments received will be posted without change, including any personal information provided, online at *http://www.regulations.gov* and will be made available for public inspection at the above physical address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ernest L. Allen, SRTD, Livestock, Poultry, and Seed Program, AMS, USDA; Telephone: (704) 810–8871, or Email: *Ernest.Allen@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Seed Service Testing Program.

OMB Number: 0581–0140.

Expiration Date of Approval: August 31, 2016.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: This information collection is necessary to conduct voluntary seed testing on a fee-for-service basis. The Agricultural Marketing Act of 1946, as amended, 7 U.S.C. 1621 *et seq.*, authorizes the Secretary of Agriculture to inspect and certify the quality of agricultural products and collect such fees as are reasonable to cover the cost of service rendered. Regulations for inspection and certification of quality of agricultural and vegetable seeds are contained in 7 CFR part 75.

The purpose of the voluntary program is to promote efficient, orderly marketing of seeds, and assist in the development of new and expanding markets. Under the program, samples of agricultural and vegetable seeds submitted to AMS are tested for factors such as purity and germination at the request of the applicant for the service. In addition, grain samples, submitted at the applicant's request, are examined for the presence of certain weed and crop seed by the Grain Inspection, Packers, and Stockyards Administration. A Federal Seed Analysis Certificate or an ISTA Orange International Seed Lot Certificate is issued giving the test results. Most of the seeds tested under this program are scheduled for export. Many importing countries require a Federal Seed Analysis Certificate on U.S. seed.

The only information collected is information needed to provide the service requested by the applicant. This includes information to identify the seed being tested, the seed treatment (if treated with a pesticide), the tests to be performed, and any other appropriate information required by the applicant to be on the Federal Seed Analysis Certificate or the ISTA Orange International Seed Lot Certificate.

The number of seed companies applying for the seed testing service has decreased from 76 to 55 during the past 3 years due to a decrease in the number of companies exporting seed. The total number of samples received for testing has also decreased. Therefore, the average burden for information collection has decreased for seed companies applying for the service.

The information in this collection is used only by authorized AMS employees to track, test, and report results to the applicant.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hours per response.

Respondents: Applicants for seed testing service.

Estimated Number of Respondents: 55.

Estimated Number of Responses per Respondent: 22.92.

Estimated Total Annual Burden on Respondents: 315.25 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: April 20, 2016.

Elanor Starmer,

Administrator, Agricultural Marketing Service.

[FR Doc. 2016–09617 Filed 4–25–16; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Submission for OMB Review; Comment Request

April 21, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by May 26, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Research Service

Title: Peer Review Related Forms for the Office of Scientific Quality Review.

OMB Control Number: 0518–0028.

Summary of Collection: The Office of Scientific Quality Review (OSQR) oversees peer review of Agricultural Research Service (ARS) research plans in response to Congressional mandate in the Agricultural Research Extension, and Education Reform Act of 1998 (Pub. L. 105–185, Section 103d). The ARS peer-review panels are comprised of scientists who review current scientific research projects and who have expert knowledge in the fields being reviewed.

Need and Use of the Information: ARS will collect the information using the following forms:

ARS–199A, Ad Hoc Peer Review of ARES Research Project
ARS–200PA, Confidentiality Agreement
ARS–202P, Chair & Panelist Information Form
ARS–203PA, Suggested Peer Reviewer Form
ARS–209P, OSQR Expense Report
ARS–211P, Request for Honorarium
ARS–223P Panel Recommendation on ARS Research Project Plan
ARS–225P, Panelist Peer Review of ARS Research Project
ARS–227P, Action Class Judgement
ARS–231 Reviewer Comment Form

The information collected is used to manage the travel and stipend payments to panel reviewers and provide well-organized feedback to ARS's researchers about their projects. If information were not collected, ARS would not meet the administrative or legislative requirements of the Peer Review Process as mandated by Public Law 105–185; Section 103(d).

Description of Respondents: Individuals or households.

Number of Respondents: 230.

Frequency of Responses: Reporting: Quarterly; Weekly; Annually.

Total Burden Hours: 2,708.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–09747 Filed 4–25–16; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Submission for OMB Review; Comment Request

April 21, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by May 26, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Importation of Wooden Handicrafts from China.

Omb Control Number: 0579–0357.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests new to the United States or not known to be widely distributed throughout the United States. The regulations in "Subpart-Logs, Lumber, and Other Unmanufactured Wood Articles" (7 CFR 319.40–1 through 319.40–11, referred to as the regulations) govern the importation of various logs, lumber, and other unmanufactured wood products in the United States. APHIS' regulations provide for the importation of wooden handicrafts from China under certain conditions. Trade in these handicrafts has resumed while continuing to protect the United States against the introduction of plant pests.

Need and Use of the Information: APHIS uses the following information activities to allow for trade in Chinese wooden handicrafts while continuing to protect the United States: Merchandise tags, a fumigation certification, and an application for permit to import timber or timber products. Failure to collect this information would cause foreign countries to refuse any shipments from the United States that contained wooden handcrafts, a development that could cause a significant disruption in trade with foreign countries and result in serious economic consequences not only to U.S. exporters, but to many U.S. industries that export products to foreign countries.

Description of Respondents: Business or other for-profit.

Number of Respondents: 361.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 5,271.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–09743 Filed 4–25–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Submission for OMB Review; Comment Request

April 21, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by May 26, 2016 will be considered. Written comments should be addressed to: Desk Officer for

Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: 7 CFR part 245, Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools.

OMB Control Number: 0584–0026.

Summary of Collection: The Richard B. Russell National School Lunch Act (NSLA), as amended, authorizes the National School Lunch Program (NSLP). Section 9, Paragraph 9(b) of the NSLA provides that the income guidelines for determining eligibility for free school meals must be 130 percent, and reduced price school meals must be 185 percent, of the applicable family size income levels contained in the non-farm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually. The Code of Federal Regulations (CFR), Title 7 CFR part 245, Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools, sets forth policies and procedures for implementing these provisions. These federal regulations require schools operating the NSLP to determine children's eligibility for free and reduced-price meals on the basis of each child's household income and size, and to establish operating procedures that will prevent physical segregation, or other discrimination against, or overt identification of children unable to pay the full price for meals or milk. Section 104 of the Child Nutrition and WIC Reauthorization Act of 2004 added section 9(b)(4) to the NSLA (42 U.S.C. 1758(b)(4)) to require school food authorities to directly certify, without further application, any child who is a member of a household receiving Supplemental Nutrition Assistance Program (SNAP) benefits.

Need and Use of the Information: FNS will collect information to determine eligibility of children for free and reduced price meals and for free milk and to assure that there is no physical segregation of, or other discrimination against, or overt identification of children unable to pay the full price for meals or milk.

Description of Respondents: Individuals or households; State, Local, or Tribal Government.

Number of Respondents: 5,409,878.

Frequency of Responses: Recordkeeping; Reporting: Annually; Other (3 per year).

Total Burden Hours: 945,743.

Food Nutrition Service

Title: Regional Office Administered Program (ROAP) Child Nutrition Payment Center (for the National School Lunch, School Breakfast, and Special Milk Programs).

OMB Control Number: 0584–0284.

Summary of Collection: Section 5 of the Child Nutrition Act of 1966 [U.S.C. 1774] specifies that if the Secretary of Agriculture is administering (in whole or in part) any program authorized under this Act, the State in which the Secretary is administering the program may, upon request to the Secretary, assume administration of that program. If a State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the nonpublic schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to public schools within the State by the State educational agency. In States where the FNS Regional Office administers the National School Lunch, School Breakfast, and Special Milk Programs as a Regional Office Administered Program (ROAP), school food authorities (SFAs) or local institutions must submit the monthly claim for reimbursement data to the Regional Office for processing to receive reimbursement.

Need and Use of the Information: The information is collected electronically from school food authorities that participate in the National School Lunch, School Breakfast, and Special Milk Programs that are administered directly by the associated USDA FNS Regional Office as a ROAP. The ROAP system is used to collect application and meal count information which is used to process claims for reimbursement. The application information is collected annually, while the meal count information is collected monthly.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 60.

Frequency of Responses: Reporting: Annually; Monthly.

Total Burden Hours: 330.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–09746 Filed 4–25–16; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Resource Coordinating Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Forest Resource Coordinating Committee (Committee) will meet via teleconference. The Committee is established consistent with the Federal Advisory Committee Act of 1972 (FACA) (5 U.S.C. App. II), and the Food, Conservation, and Energy Act of 2008 (the Act) (Pub. L. 110–246). Committee information can be found at the following Web site at *http://www.fs.fed.us/spf/coop/frcc/*.

DATES: The teleconference will be held on June 15, 2016, from 12:00 p.m. to 1:30 p.m., Eastern Daylight Time (EDT).

All meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held via teleconference. For anyone who would like to attend the teleconference, please visit the Web site listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments placed on the Committee's Web site listed above.

FOR FURTHER INFORMATION CONTACT: Andrea Bedell-Loucks, Designated Federal Officer, at 202–205–1190 or via email at *abloucks@fs.fed.us*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Review action items and timetable from the May meeting; and
2. Review outreach opportunities from presentations at the May meeting.

The teleconference is open to the public. However, the public is strongly encouraged to RSVP prior to the teleconference to ensure all related documents are shared with public meeting participants. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing 10 days before the planned meeting to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Written comments and time requests for oral comments must be sent to Lori McKean, 1400 Independence Avenue SW., Mailstop 1123, Washington, DC 20250; or by email to *lmckean@fs.fed.us.* A summary of the meeting will be posted on the Web site listed above within 21 days after the meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: April 15, 2016.

Patricia Hirami,

Associate Deputy Chief, State and Private Forestry.

[FR Doc. 2016–09669 Filed 4–25–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Secure Rural Schools Act

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension of the information collection, Secure Rural Schools Act.

DATES: Comments must be received in writing on or before June 27, 2016 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to David Bergendorf, National Secure Rural Schools Program Coordinator, USDA Forest Service, Washington Office—Yates Building, 1400 Independence Avenue, Mailstop #1158, Washington, DC 20250; all comments should identify OMB 0596–0220.

The public may inspect comments received at Web site: *http://www.fs.usda.gov/main/pts/countyfunds/certification.*

FOR FURTHER INFORMATION CONTACT: David Bergendorf, National Secure Rural Schools Program Coordinator, by phone at 505–563–7117 or via email at *dwbergendorf@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title: Secure Rural Schools Act.

OMB Number: 0596–0220.

Expiration Date of Approval: June 30, 2016.

Type of Request: Extension.

Abstract: The Secure Rural Schools and Community Self-Determination Act of 2000 (the Act) (16 U.S.C. 7101 *et seq.*), as reauthorized in Public Law 110–343 and Public Law 112–141, requires the appropriate official of a county that receives funds under Title III of the Act to submit to the appropriate Secretary an annual certification that the funds expended have been used as authorized under section 302(a) of the Act.

The appropriate official of each participating county will be requested to report the amount of Title III funds expended in the applicable year in these categories as specified in the Act:

(1) To carry out authorized activities under the Firewise Communities Program;

(2) To reimburse the participating county for emergency services performed on Federal land and paid for by the participating county; and

(3) To develop community wildfire protection plans in coordination with the appropriate Secretary.

The information collection will identify the participating county, the year in which the expenditures were made, the name, title, and signature of the certifying official; and the date of the certification. The certification will include a statement that all expenditures were for uses authorized under section 302(a) of the Act and that the proposed uses were published and had a 45-day comment period and were submitted to the appropriate Secure Rural Schools Act resource advisory committee(s), if any, as described in Section 302(b) of the Act.

Beginning with the certification due on February 1, 2013, the information collection also will request the county to certify the amount of Title III funds received since October of 2008 that has not been obligated as of September 30th of the previous year. This collection is necessary in the certification due on February 1, 2014, to determine the amount of Title III funds that must be returned to the United States Treasury under section 304(b) of the Act. Collection of this information in 2013 is consistent with a recent audit of county uses of Title III funds by the Government Accountability Office (*http://www.gao.gov/products/GAO-12-775*). A county's procedure for and documentation of its obligation of title III funds should be consistent with its procedures to obligate funds from other Federal sources.

In summary, the February 1, 2013, information collection will certify Title III funds expended in calendar year 2012, and the amount of Title III funds not obligated as of September 30, 2012. The February 1, 2014, information collection will certify Title III funds expended in calendar year 2013 and the amount of Title III funds not obligated as of September 30, 2013.

The determination of who is the appropriate certifying official is at the discretion of the county and borough and will vary depending on county or borough organization. For unorganized boroughs in Alaska and for participating counties in Vermont, a state official may provide the information.

The information will be collected in the form of conventional correspondence such as a letter and, at the respondent's option, attached tables or similar graphic display. The Forest Service provides an optional form for the convenience of respondents. At the respondent's discretion, the information may be submitted by hard copy and/or electronically scanned and included as an attachment to electronic mail.

Under the Act, the first response was required by February 1, 2010 for funds expended in 2009. Responses are required by February 1st of the following year each year Title III funds are expended. The Act requires Title III funds to be obligated by September 30, 2018, or be returned to the U.S. Treasury; therefore, the funds are likely to be expended or returned in 2014 and the final certification of expenditures could be made by February 1, 2019.

The Department of the Interior and the Bureau of Land Management are also authorized to participate in this information collection because the Bureau of Land Management administers Federal lands in western Oregon covered by the Act. The information will be reviewed by the appropriate Secretary, or designee, to verify that participating counties have certified that funds were expended as authorized in the Act and to identify amounts not obligated by September 30th of the previous year. The information also may be used by the Department of the Interior because it is relevant to its Payments in Lieu of Taxes (PILT) program.

Estimate of Annual Burden per Respondent: The estimated time required for each respondent to collect, prepare and submit the information is 24 hours each year, including an estimated 20 hours for collection and four hours for preparation and submission.

Type of Respondents: Respondents are county officials.

Estimated Annual Number of Respondents: 344 county officials are expected to respond each year.

Estimated Annual Number of Responses per Respondent: The Act requires only one response for each participating county for each year expenditures are made, except that sixteen counties in western Oregon will respond separately to the Department of the Interior and the Department of Agriculture.

Estimated Total Annual Burden on Respondents: The estimated time required for all respondents (344 counties) to collect, prepare, and submit the information is 8,256 hours each year.

Comment Is Invited

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: April 14, 2016.

Mary Wagner,

Associate Chief of the Forest Service.

[FR Doc. 2016–09670 Filed 4–25–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Section 538 Guaranteed Rural Rental Housing Program 2016 Industry Forums—Open Teleconference and/or Web Conference Meetings

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces a series of teleconference and/or web conference meetings regarding the U.S. Department of Agriculture (USDA) Section 538 Guaranteed Rural Rental Housing (GRRH) program, which are scheduled to occur during 2016 and 2017. This Notice also outlines suggested discussion topics for the meetings and is intended to notify the general public of their opportunity to participate in the teleconference and/or web conference meetings.

DATES: See **SUPPLEMENTARY INFORMATION** section for dates.

FOR FURTHER INFORMATION CONTACT: Monica Cole, Financial and Loan Analyst, at (202) 720–1251, fax: (844) 875–8075, or email: *monica.cole@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: The objectives of this series of teleconferences are as follows:

- Enhance the effectiveness of the Section 538 the GRRH program.
- Update industry participants and Rural Housing Service (RHS) staff on developments involving the Section 538 GRRH program.
- Enhance RHS' awareness of the market and other forces that impact the Section 538 GRRH program.

Topics to be discussed could include, but will not be limited to, the following:

- Updates on USDA's Section 538 GRRH program activities.
- Perspectives on the current state of debt financing and its impact on the Section 538 GRRH program.
- Enhancing the use of Section 538 GRRH program financing with the transfer and/or preservation of Section 515 developments.
- The impact of the Low Income Housing Tax Credits program changes on Section 538 GRRH program financing.

The dates and times for the teleconference and/or web conference meetings will be announced via email to parties registered as described below.

Registration: Any member of the public wishing to register for the calls and obtain the call-in number, access code, web link and other information for any of the public teleconference and/or web conference meetings may contact Monica Cole, Financial and Loan Analyst, at (202) 720–1251, fax: (844) 875–8075, or email: *monica.cole@wdc.usda.gov.* Those who request registration less than 15 calendar days prior to the date of a teleconference and/or web conference meetings may not receive notice of that teleconference and/or web conference meeting, but will receive notice of future teleconference and/or web conference meetings.

The Agency expects to accommodate each participant's preferred form of participation by telephone or via web link. However, if it appears that existing capabilities may prevent the Agency from accommodating all requests for one form of participation, each participant will be notified and encouraged to consider an alternative form of participation. Individuals who plan to participate and need reasonable accommodations or language translation assistance should inform Monica Cole within 10 business days in advance of the meeting date.

Non-Discrimination Requirements

The U.S. Department of Agriculture prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., STOP 9410, Washington, DC 20250–9410, or call toll free at (866) 632–9992 (English) or (800) 877–8339 (TDD) or (866) 377–8642 (English Federal—Relay) or (800) 845–6136 (Spanish Federal—Relay). "USDA is an equal opportunity provider, employer, and lender."

Dated: April 19, 2016.

Tony Hernandez,

Administrator, Rural Housing Service.

[FR Doc. 2016–09642 Filed 4–25–16; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–21–2016]

Foreign-Trade Zone (FTZ) 46G—Cincinnati, Ohio; Notification of Proposed Production Activity; Givaudan Flavors Corporation; (Flavor Products); Cincinnati, Ohio

Givaudan Flavors Corporation (Givaudan) submitted a notification of proposed production activity to the FTZ Board for its facility in Cincinnati, Ohio within Subzone 46G. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on April 1, 2016.

The Givaudan facility is used for the production of flavor compounds. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Givaudan from customs duty payments on the foreign status components used in export production. On its domestic sales, Givaudan would be able to choose the duty rates during customs entry procedures that apply to cocoa food preparations, dairy food preparations, coffee food preparations, seasonings, sauces, alcoholic preparations for beverages, other food preparations with dairy, confectionary preparations without sugar, concentrated orange oil, concentrated lemon oil, flavor preparations for food or drinks without alcohol, flavor preparations for food or drinks with alcohol, perfume bases, and odiferous substances other than food or drink with perfume bases (duty rate ranges from free to 70.4c/kg + 8.5%) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The materials sourced from abroad include: Benzaldehyde, vanillin, orange oil, concentrated orange oil, lemon oil, and concentrated lemon oil (duty rate ranges from 2.7% to 5.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is June 6, 2016.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the "Reading Room" section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Kathleen Boyce at *Kathleen.Boyce@trade.gov* or (202) 482–1346.

Dated: April 20, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–09706 Filed 4–25–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–49–2016]

Foreign-Trade Zone 61—San Juan, Puerto Rico; Application for Subzone; Rooms to Go (PR), Inc.; Toa Baja, Puerto Rico

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Puerto Rico Trade & Export Company, grantee of FTZ 61, requesting subzone status for the facility of Rooms to Go (PR), Inc., located in Toa Baja, Puerto Rico. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on April 20, 2016.

The proposed subzone (16.9 acres) is located at Road #2, 19.1 km, Candelaria Neighborhood, City of Toa Baja. The proposed subzone would be subject to the existing activation limit of FTZ 61. No authorization for production activity has been requested at this time.

In accordance with the Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 6, 2016. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 20, 2016.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: April 20, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–09703 Filed 4–25–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–22–2016]

Foreign-Trade Zone 291—Cameron Parish, Louisiana; Application for Subzone; G2 LNG LLC; Cameron, Louisiana

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the West Cameron Port Commission, grantee of FTZ 291, requesting subzone status for the facility of G2 LNG LLC located in Cameron, Louisiana. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on April 20, 2016.

The proposed subzone (766 acres) is located at 110 Gulf Beach Highway in Cameron, Louisiana. No authorization for production activity has been requested at this time.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is June 6, 2016. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 20, 2016.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the "Reading Room" section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: April 20, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–09704 Filed 4–25–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 84–26A12]

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review to the Northwest Fruit Exporters of Washington ("NFE"), Application No. (84–26A12).

SUMMARY: The Secretary of Commerce, through the Office of Trade and Economic Analysis ("OTEA"), issued an amended Export Trade Certificate of Review to NFE of California on March 21, 2016.

FOR FURTHER INFORMATION CONTACT: Joseph E. Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325 (2016).

OTEA is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

NFE's Export Trade Certificate of Review has been amended to:

Description of Amendments to the Certificate:

1. Under the heading Products, add "fresh pears."

2. Under the heading Export Trade Activities and Methods of Operation, add "fresh pears" to the subtitles of sections 1 and 3.

3. Add coverage for Export Trade Activities and Methods of Operation relating to "fresh pears" for the following existing Members of the Certificate (within the meaning of section 325.2(l) of the regulations (15 CFR 325.2(l)):

Apple House Warehouse & Storage, Inc.
Blue Bird, Inc.
Blue Star Growers, Inc.
Borton & Sons, Inc.
Chelan Fruit Cooperative
Congdon Packing Co. L.L.C.
Conrad & Adams Fruit L.L.C.
Crane & Crane, Inc.
Diamond Fruit Growers Inc.
Gold Digger Apples, Inc.
Hansen Fruit & Cold Storage Co., Inc.
Highland Fruit Growers, Inc.
HoneyBear Growers, LLC
Matson Fruit Company
McDougall & Sons, Inc.
Stadelman Fruit, L.L.C.
Stemilt Growers, LLC
Strand Apples, Inc.
The Dalles Fruit Company, LLC
Valley Fruit III L.L.C.

4. Add the following new Members of the Certificate (within the meaning of section 325.2(l) of the regulations (15 CFR 325.2(l)), for Export Trade Activities and Methods of Operation relating to "fresh pears":

Duckwall Fruit
Naumes, Inc.
Peshastin Hi-Up Growers
Underwood Fruit & Warehouse Co.

5. Add the following new Members of the Certificate for Export Trade Activities and Methods of Operation relating to apples:

Piepel Premium Fruit Packing LLC
Ron LeFore, d/b/a Ron LeFore Apple Farms
Western Traders LLC

6. Remove the following companies as Members of the Certificate: Blue Mountain Growers, Inc. (Milton-Freewater, OR), and Obert Cold Storage (Zillah, WA); and

7. Change the name of the following existing Members: The Apple House, Inc. (Brewster, WA) is now Apple House Warehouse & Storage, Inc. (Brewster, WA); C&M Fruit Packers (Yakima, WA) is now Columbia Fruit Packers/Airport Division (Yakima, WA); Domex Marketing (Yakima, WA) is now Domex Superfresh Growers LLC (Yakima, WA); and Stemilt Growers Inc. is now Stemilt Growers, LLC.

NFE's complete Membership covered by the amended Export Trade Certificate of Review is listed below:

1. Allan Bros., Naches, WA
2. AltaFresh L.L.C. dba Chelan Fresh Marketing, Chelan, WA
3. Apple House Warehouse & Storage, Inc., Brewster, WA
4. Apple King, L.L.C., Yakima, WA
5. Auvil Fruit Co., Inc., Orondo, WA
6. Baker Produce, Inc., Kennewick, WA
7. Blue Bird, Inc., Peshastin, WA
8. Blue Star Growers, Inc., Cashmere, WA
9. Borton & Sons, Inc., Yakima, WA
10. Brewster Heights Packing & Orchards, LP, Brewster, WA
11. Broetje Orchards LLC, Prescott, WA
12. C.M. Holtzinger Fruit Co., Inc., Yakima, WA
13. Chelan Fruit Cooperative, Chelan, WA
14. Chiawana, Inc. dba Columbia Reach Pack, Yakima, WA
15. Columbia Fruit Packers, Inc., Wenatchee, WA
16. Columbia Fruit Packers/Airport Division, Yakima, WA
17. Columbia Marketing International Corp., Wenatchee, WA
18. Columbia Valley Fruit, L.L.C., Yakima, WA
19. Congdon Packing Co. L.L.C., Yakima, WA
20. Conrad & Adams Fruit L.L.C., Grandview, WA
21. Cowiche Growers, Inc., Cowiche, WA
22. CPC International Apple Company, Tieton, WA
23. Crane & Crane, Inc., Brewster, WA
24. Custom Apple Packers, Inc., Brewster, Quincy, and Wenatchee, WA
25. Diamond Fruit Growers, Odell, OR
26. Domex Superfresh Growers LLC, Yakima, WA
27. Douglas Fruit Company, Inc., Pasco, WA
28. Dovex Export Company, Wenatchee, WA
29. Duckwall Fruit, Odell, OR
30. E. Brown & Sons, Inc., Milton-Freewater, OR
31. Evans Fruit Co., Inc., Yakima, WA
32. E.W. Brandt & Sons, Inc., Parker, WA
33. Frosty Packing Co., LLC, Yakima, WA
34. G&G Orchards, Inc., Yakima, WA
35. Garrett Ranches Packing, Wilder, ID
36. Gilbert Orchards, Inc., Yakima, WA

37. Gold Digger Apples, Inc., Oroville, WA
38. Hansen Fruit & Cold Storage Co., Inc., Yakima, WA
39. Henggeler Packing Co., Inc., Fruitland, ID
40. Highland Fruit Growers, Inc., Yakima, WA
41. HoneyBear Growers, Inc., (Brewster, WA)
42. Honey Bear Tree Fruit Co., LLC, Wenatchee, WA
43. Hood River Cherry Company, Hood River, OR
44. Ice Lakes LLC, E. Wenatchee, WA
45. JackAss Mt. Ranch, Pasco, WA
46. Jenks Bros Cold Storage Packing (Royal City, WA)
47. Kershaw Fruit & Cold Storage, Co., Yakima, WA
48. L&M Companies, Selah, WA
49. Larson Fruit Co., Selah, WA
50. Manson Growers Cooperative, Manson, WA
51. Matson Fruit Company, Selah, WA
52. McDougall & Sons, Inc., Wenatchee, WA
53. Monson Fruit Co.—Apple operations only, Selah, WA
54. Morgan's of Washington dba Double Diamond Fruit, Quincy, WA
55. Naumes, Inc., Medford, OR
56. Northern Fruit Company, Inc., Wenatchee, WA
57. Olympic Fruit Co., Moxee, WA
58. Oneonta Trading Corp., Wenatchee, WA
59. Orchard View Farms, Inc., The Dalles, OR
60. Pacific Coast Cherry Packers, LLC, Yakima, WA
61. Peshastin Hi-Up Growers, Peshastin, WA
62. Phillippi Fruit Company, Inc., Wenatchee, WA
63. Piepel Premium Fruit Packing, LLC, East Wenatchee, WA
64. Polehn Farm's Inc., The Dalles, OR
65. Price Cold Storage & Packing Co., Inc., Yakima, WA
66. Pride Packing Company, Wapato, WA
67. Quincy Fresh Fruit Co., Quincy, WA
68. Rainier Fruit Company, Selah, WA
69. Roche Fruit, Ltd., Yakima, WA
70. Ron Lefore, d/b/a Ron Lefore Apple Farms, Milton-Freewater, OR
71. Sage Fruit Company, L.L.C., Yakima, WA
72. Smith & Nelson, Inc., Tonasket, WA
73. Stadelman Fruit, L.L.C., Milton-Freewater, OR, and Zillah, WA
74. Stemilt Growers, LLC, Wenatchee, WA
75. Strand Apples, Inc., Cowiche, WA
76. Symms Fruit Ranch, Inc., Caldwell, ID
77. The Dalles Fruit Company, LLC, Bingen, WA
78. Underwood Fruit & Warehouse Co., Dallesport, WA
79. Valicoff Fruit Co., Inc., Wapato, WA
80. Valley Fruit III L.L.C., Wapato, WA
81. Washington Cherry Growers, Peshastin, WA
82. Washington Fruit & Produce Co., Yakima, WA
83. Western Sweet Cherry Group, LLC, Yakima, WA
84. Western Traders, LLC, East Wenatchee, WA
85. Whitby Farms, Inc. dba: Farm Boy Fruit Snacks LLC, Mesa, WA
86. Yakima Fresh, Yakima, WA
87. Yakima Fruit & Cold Storage Co., Yakima, WA
88. Zirkle Fruit Company, Selah, WA

Dated: April 19, 2016

Joseph E. Flynn,

Director, Office of Trade and Economic Analysis.

[FR Doc. 2016–09651 Filed 4–25–16; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Risk Policy Working Group to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, May 12, 2016 beginning at 9:30 a.m.

ADDRESSES: The meeting will be held at the DoubleTree by Hilton, 50 Ferncroft Road, Danvers, MA 01923; phone: (978) 777–2500.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Risk Policy Working Group will: continue the development of the Implementation Plan contained in the Risk Policy "Road Map", which will address the implementation of the Council's Risk Policy across all Council-managed species and address other business as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 21, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–09654 Filed 4–25–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings and hearings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a joint meeting of its Hawaii Regional Ecosystem Advisory Committee (REAC), Hawaii Advisory Panel (AP), and Hawaii members of its Noncommercial Fishing Advisory Committee (NCFAC) and a Hawaii AP meeting to discuss and make recommendations on issues in Hawaii and the Western Pacific region.

DATES: The joint Hawaii REAC, AP and NCFAC meeting will be held on Wednesday, May 11, 2016, between 9 a.m. and 12:00 p.m. The Hawaii AP meeting will be held on Wednesday, May 11, 2016, between 1 p.m. and 4 p.m. For agendas, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The joint Hawaii REAC, AP and NCFAC meeting and the Hawaii AP meeting will be held at the Council office, 1164 Bishop St. Honolulu, HI 96813; phone: (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, phone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: Public comment periods will be provided throughout the agendas. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Agenda for the Joint Hawaii AP, REAC and NCFAC Meeting

Wednesday, May 11, 2016, 9 a.m.–12 p.m.

1. Welcome and Introductions
2. Report on Changes to the Pelagic and Archipelagic Annual Fisheries Reports
3. Review of Annual Report Fishery Performance Information
   A. Bottomfish
   B. Coral Reef
   C. Crustaceans
   D. Precious Corals
   E. Pelagics
4. Review of Annual Report Ecosystem Considerations Information and Data Gaps
   A. Habitat
   B. Protected Species
   C. Human Dimensions
   D. Climate Variables
   E. Marine Planning
   F. Data Integration
5. Report on FEP Implementation Activities
6. Public Comment
7. Discussion and Recommendations

Agenda for the Hawaii AP meeting

Wednesday, May 11, 2016, 1 p.m.–4 p.m.

1. Welcome and Introductions
2. Hawaii FEP Community Activities
3. Hawaii FEP AP Issues
   A. Island Fisheries
   B. Pelagic Fisheries
   C. Ecosystems and Habitat
   D. Indigenous and Fishing Communities
   E. Other Issues
6. Public Comment
7. Discussion and Recommendations
8. Other Business

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 21, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–09655 Filed 4–25–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Observer Advisory Committee (OAC) will meet May 12 through May 13, 2016.

DATES: The meeting will be held on May 12, 2016, from 9 a.m. to 5:30 p.m. and on May 13, 2016, from 8:30 a.m. to 1 p.m.

ADDRESSES: The meeting will be in the Traynor Room, Building 4 at the Alaska Fisheries Science Center, 7700 Sand Point Way NE., Seattle, WA 98115. Please call (907) 271–2896.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone: (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

Thursday, May 12 and Friday, May 13, 2016

The agenda will include a review and discussion of observer program review documents, efficiencies in the partial coverage contract, and regulatory amendment analyses. The Agenda is subject to change, and the latest version will be posted at *http://www.npfmc.org/*.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: April 21, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–09662 Filed 4–25–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of telephonic meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Electronic Monitoring Workgroup (EMWG) will hold a telephonic meeting on May 11, 2016.

DATES: The meeting will be held on Wednesday, May 11, 2016, from 8 a.m. to 5 p.m. (Alaska Time).

ADDRESSES: The meeting will be held in the Traynor Room, Building 4 at the Alaska Fishery Science Center, 7600 Sand Point Way NE., Seattle, WA 98115. Teleconference number is (907) 271–2896.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone: (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

Wednesday May 11, 2016

The agenda will include an update on the 2016 pre-implementation program, review of the budget and funding, the 2017 pre-implementation planning, enforcement elements of the EM planning, EM analysis, and the scope of the June 2016 Council discussion. The Agenda is subject to change, and the latest version will be posted at *http://www.npfmc.org/.*

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: April 21, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–09661 Filed 4–25–16; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB–2016–0017]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is requesting to renew the Office of Management and Budget (OMB) approval for an existing information collection titled, “Consumer Advisory Boards, Groups and Committees.”

DATES: Written comments are encouraged and must be received on or before *June 27, 2016* to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- Electronic: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552.
- Hand Delivery/Courier: Consumer Financial Protection Bureau (Attention: PRA Office), 1275 First Street NE., Washington, DC 20002.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *CFPB_PRA@cfpb.gov. Please do not submit comments to this mailbox.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Consumer Advisory Boards, Groups and Committees.

OMB Control Number: 3170–0037.

Type of Review: Extension without change of a currently approve collection.

Affected Public: Individuals.

Estimated Number of Respondents: 425.

Estimated Total Annual Burden Hours: 503.

Abstract: The Consumer Advisory Board (CAB) and other Advisory Groups may invite individuals with special expertise to advise the groups on an ad hoc basis (Special Advisors). The selection-related information will allow the Bureau to obtain information on the qualifications of individuals nominated to the CAB and will aid the Bureau in selecting members for other Advisory Groups. The selection-related information from potential Special Advisors will aid the Bureau in selecting Special Advisors to the CAB and other Advisory Groups. The selection-related information will also aid the Bureau in determining the appropriateness of participation in particular matters. The information collected/advice from members and Special Advisors will aid the Bureau in the exercise of its functions. The feedback collected will allow the Bureau to evaluate and improve its advisory group program. Information collected will be used to issue travel orders or provide reimbursement for travel expenses, as applicable.

Request for Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau’s estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Dated: April 20, 2016.

Darrin A. King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2016–09694 Filed 4–25–16; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Air Force

United States Air Force F–35A Operational Beddown—Pacific

ACTION: Notice of Availability (NOA) Record of Decision (ROD).

SUMMARY: On April 4, 2016, the United States Air Force signed the ROD for the United States Air Force F–35A Operational Beddown—Pacific Final Environmental Impact Statement (EIS). This ROD states the Air Force decision is to select the Proposed Action. The decision means that the Air Force will beddown two squadrons of F–35A aircraft (48 Primary Assigned Aircraft and 6 Backup Inventory) at Eielson Air Force Base, Alaska. The F–35A aircraft will use related airspace and ranges, particularly the Joint Alaska Pacific Range Complex (JAPRC); no new airspace has been proposed to accommodate the F–35A operations.

The decision was based on matters discussed in the Final EIS; inputs from the public, Native American tribes, and Federal, State and local units of government, and regulatory agencies; and other relevant factors. The Final EIS was made available to the public on March 4, 2016 through a NOA in the **Federal Register** (Volume 81, Number 43, Page 11557) with a post-filing waiting period that ended on April 3, 2016. This ROD documents only the Air Force decision on the proposed actions analyzed in the Final EIS. Authority: This NOA is published pursuant to the regulations (40 CFR 1506.6) implementing the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) and the Air Force’s Environmental Impact Analysis Process (32 CFR Secs. 989.21(b) and 989.24(b)(7))

FOR FURTHER INFORMATION CONTACT: Toni Ristau, AFCEC/CZN 2261 Hughes Ave, Ste 155, JBSA Lackland, TX 78236, (210) 925–2738.

Henry Williams,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2016–09683 Filed 4–25–16; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2016–OS–0047]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition, Technology and Logistics, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the Office of the Assistant Secretary of Defense for Research and Engineering announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 27, 2016.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: ODCMO, Directorate for Oversight and Compliance, 4800 Mark Center Drive, ATTN: Mailbox 24, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Department of Defense Basic Research Office, ATTN: Wade Wargo, 4800 Mark Center Drive, Suite 17C08, Alexandria, VA 22350–3600, or call Wade Wargo at 571–372–2941.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Representations to Implement Appropriation Act Provisions on Felony Convictions and Unpaid Federal Tax Liabilities, OMB Control Number 0704–0494.

Needs and Uses: The information collection requirement is necessary to enable DoD awarding officials to exercise due diligence and continue to comply with provisions found in Sections 745 and 746 of the Financial Services and General Government Appropriations Act, 2016 (Division E of Pub. L. 114–113, the Consolidated Appropriations Act, 2016), as well as similar provisions that future years' appropriations acts may include. The requirements of these provisions were originally enacted in three Fiscal Year (FY) 2012 appropriations acts that made funds available to DoD Components for obligation. The details of the provisions in the three FY 2012 acts varied somewhat but they generally required DoD to consider suspension or debarment before using appropriated funding to enter into a grant or cooperative agreement with a corporation if the awarding official was aware that the corporation had an unpaid federal tax liability or was convicted of a felony criminal violation within the preceding 24 months. The FY 2012 provisions were in:

- Sections 8124 and 8125 of the Department of Defense Appropriations Act, 2012 (Division A of Pub. L. 112–74, the Consolidated Appropriations Act, 2012);
- Section 514 of the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2012 (Division H of Pub. L. 112–74); and
- Sections 504 and 505 of the Energy and Water Development Appropriations Act, 2012 (Division B of Pub. L. 112–74).

Generally, the requirements related to these provisions of the FY 2012 appropriations acts have been included in each subsequent fiscal year's appropriations acts. Since FY 2015, the provisions related to felony convictions and unpaid federal tax liabilities have been enacted in the government-wide general provisions portion of the Financial Services and General Government Appropriations Act.

Affected Public: Not-For-Profit institutions; Individuals or Households; Business or Other For-Profit; Farms; Federal Government; or State, Local or Tribal Government.

Annual Burden Hours: 1,250.
Number of Respondents: 2,500.
Responses per Respondent: 6.
Annual Responses: 15,000.
Average Burden per Response: 5.
Frequency: On occasion.

Respondents are entities submitting applications or proposals to Department of Defense Components that may result in the award of grants or cooperative agreements. Under a competitive program, each entity will be required to submit representations with its application or proposal to disclose whether it is a corporation that has an outstanding tax liability or has been convicted of a felony criminal violation within the past 24 months. Most applicants for DoD awards submit electronic applications through Grants.gov and the representations would be electronically attached to the applicant's SF 424 (OMB Control Number 4040–0004).

A memorandum to DoD Components from the Assistant Secretary of Defense for Research and Engineering specifies wording of the representations to be used for continuing obligations of FY 2012 appropriations and provides guidance on tailoring of the wording, if needed, to conform to provisions of future appropriations acts. The memorandum may be viewed at the DoD Basic Research Office Web site (*http://www.acq.osd.mil/rd/basic_research/funding/documents/appropriations_act_provisions.pdf*).

An awarding official prior to making a grant or cooperative agreement award will use the information provided by the representations in judging whether the entity recommended to receive the award is eligible to do so—*i.e.,* to decide whether the agency must first consider suspension or debarment of the entity and determine that further action is not necessary to protect the interests of the Government. An entity that fails to submit a required representation therefore will be ineligible to receive a grant or cooperative agreement from the agency.

Dated: April 21, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–09652 Filed 4–25–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the United States Army Science Board ("the Board").

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: This committee's charter is being renewed in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(d). The Board's charter and contact information for the Board's Designated Federal Officer (DFO) can be obtained at *http://www.facadatabase.gov/*. The Board provides the Secretary of Defense independent advice and recommendations on matters relating to the Army's scientific, technical, manufacturing, acquisition, logistics, and business management functions, as well as other Department of the Army related matters as determined by the Secretary of the Army. The Board shall be composed of no more than 20 members who are eminent authorities in one or more of the following disciplines: Science, technology, manufacturing, acquisition, logistics, and business management functions, as well as other matters of special interest to the Department of the Army. Members who are not full-time or permanent part-time Federal officers or employees will be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as special government employee members. Members who are full-time or permanent part-time Federal officers or employees will serve as regular government employee members. All members are appointed to provide advice on behalf of the Government on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official Board-related travel and per diem, members serve without compensation.

The DoD, as necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Board, and all subcommittees must operate under the provisions of FACA and the Government in the Sunshine Act. Subcommittees will not work independently of the Board and must report all their recommendations and advice solely to the Board for full deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Board. No subcommittee or any of its members can update or report, verbally or in writing, directly to the DoD or any Federal officers or employees. The Board's DFO, pursuant to DoD policy, must be a full-time or permanent part-time DoD employee, and must be in attendance for the duration of each and every Board/subcommittee meeting. The public or interested organizations may submit written statements to the Board membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board. All written statements shall be submitted to the DFO for the Board, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: April 21, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–09639 Filed 4–25–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Judicial Proceedings Since Fiscal Year 2012 Amendments Panel (Judicial Proceedings Panel); Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal Advisory Committee meeting of the Judicial Proceedings since Fiscal Year 2012 Amendments Panel ("the Judicial Proceedings Panel" or "the Panel"). The meeting is open to the public.

DATES: A meeting of the Judicial Proceedings Panel will be held on Friday, May 13, 2016. The public session will begin at 9:00 a.m. and end at 4:15 p.m.

ADDRESSES: The Judge Advocate General's Legal Center and School, 600 Massie Rd., Charlottesville, VA 22903.

FOR FURTHER INFORMATION CONTACT: Ms. Julie Carson, Judicial Proceedings Panel, One Liberty Center, 875 N. Randolph Street, Suite 150, Arlington, VA 22203. Email: *whs.pentagon.em.mbx.judicial-panel@mail.mil* Phone: (703) 693–3849. Web site: *http://jpp.whs.mil*.

SUPPLEMENTARY INFORMATION: This public meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: In Section 576(a)(2) of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239), as amended, Congress tasked the Judicial Proceedings Panel to conduct an independent review and assessment of judicial proceedings conducted under the Uniform Code of Military Justice (UCMJ) involving adult sexual assault and related offenses since the amendments made to the UCMJ by section 541 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1404), for the purpose of developing recommendations for improvements to such proceedings. At this meeting, the Panel will review training and experience for military attorneys involved in the adjudication of sexual assault offenses. The Panel is interested in written and oral comments from the public, including non-governmental organizations, relevant to these issues or any of the Panel's tasks.

Agenda

—8:30 a.m.–9:00 a.m. Administrative Work *(41 CFR 102–3.160, not subject to notice & open meeting requirements)*

—9:00 a.m.–10:30 a.m. Overview on Judge Advocate Military Justice Training *(Public meeting begins)—Speakers: Leaders from the Services' schools for judge advocate training*

—10:30 a.m.–12:00 p.m. Overview on Training and Experience of Attorneys Prosecuting Adult Sexual Assault Cases—*Speakers: Service experts on trial counsel training*

—12:00 p.m.–1:00 p.m. Lunch and Tour of the Army JAG School

—1:00 p.m.–2:30 p.m. Overview on Training and Experience of Attorneys Defending Adult Sexual Assault Cases—*Speakers: Service experts on defense counsel training*

—2:30 p.m.–4:00 p.m. Overview of Training and Experience of Special Victims' Counsel—*Speakers: Service experts on victim counsel training*

—4:00 p.m.–4:15 p.m. Public Comment

Availability of Materials for the Meeting: A copy of the May 13, 2016 public meeting agenda or any updates or changes to the agenda, to include individual speakers not identified at the time of this notice, as well as other materials provided to Panel members for use at the public meeting, may be obtained at the meeting or from the Panel's Web site at *http://jpp.whs.mil.* In the event the Office of Personnel Management closed the government due to inclement weather or any other reason, please consult the Web site for any changes in the public meeting date or time.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Parking is available at the Legal Center and School. To park, attendees must present a government-issued photo identification card to the Legal Center and School security guard, who will direct you to the parking lot designated for the event. To enter the building, attendees must present a government-issued photo identification card to the security guard, register with staff, and wear a visitor badge while in the building. Staff will direct attendees to the location of the meeting. Seating is limited and is on a first-come basis.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact the Judicial Proceedings Panel at *whs.pentagon.em.mbx.judicial-panel@mail.mil* at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Procedures for Providing Public Comments: Pursuant to 41 CFR 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Panel about its mission and topics pertaining to this public session. Written comments must be received by the JPP at least five (5) business days prior to the meeting date so that they may be made available to the Judicial Proceedings Panel for their consideration prior to the meeting. Written comments should be submitted via email to the Judicial Proceedings Panel at *whs.pentagon.em.mbx.judicial-panel@mail.mil* in the following formats: Adobe Acrobat or Microsoft Word. Please note that since the Judicial Proceedings Panel operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection. If members of the public are interested in making an oral statement, a written statement must be submitted as above along with a request to provide an oral statement. After reviewing the written comments, the Chairperson and the Designated Federal Officer will determine who of the requesting persons will be able to make an oral presentation of their issue during the open portion of this meeting. Determination of who will be making an oral presentation is at the sole discretion of the Committee Chair and the Designated Federal Officer and will depend on time available and relevance to the Panel's activities, and on a first-come basis. Oral presentations by members of the public will be permitted from 4:00 p.m. to 4:15 p.m. on May 13, 2016 in front of the Panel members.

Committee's Designated Federal Officer: The Panel's Designated Federal Officer is Ms. Maria Fried, Department of Defense, Office of the General Counsel, 1600 Defense Pentagon, Room 3B747, Washington, DC 20301–1600.

Dated: April 21, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–09671 Filed 4–25–16; 8:45 am]

BILLING CODE 5001–06–P

DENALI COMMISSION

[3300–01–m]

Denali Commission Fiscal Year 2016 Draft Work Plan

AGENCY: Denali Commission.

ACTION: Notice.

SUMMARY: The Denali Commission (Commission) is an independent federal agency based on an innovative federal-state partnership designed to provide critical utilities, infrastructure and support for economic development and training in Alaska by delivering Federal services in the most cost-effective manner possible. The Commission was created in 1998 with passage of the October 21, 1998 Denali Commission Act (Act) (Title III of Pub. L. 105–277, 42 U.S.C. 3121). The Act requires that the Commission develop proposed work plans for future spending and that the annual Work Plan be published in the **Federal Register**, providing an opportunity for a 30-day period of public review and written comment. This **Federal Register** notice serves to announce the 30-day opportunity for public comment on the Denali Commission Draft Work Plan for Federal Fiscal Year 2016 (FY 2016).

DATES: Comments and related material to be received by May 25, 2016.

ADDRESSES: Submit comments to the Denali Commission, Attention: Sabrina Cabana, 510 L Street, Suite 410, Anchorage, AK 99501.

FOR FURTHER INFORMATION CONTACT: Ms. Sabrina Cabana, Denali Commission, 510 L Street, Suite 410, Anchorage, AK 99501. Telephone: (907) 271–1414. Email: *scabana@denali.gov.*

Background: The Denali Commission's mission is to partner with tribal, federal, state, and local governments and collaborate with all Alaskans to improve the effectiveness and efficiency of government services, to build and ensure the operation and maintenance of Alaska's basic infrastructure, and to develop a well-trained labor force employed in a diversified and sustainable economy.

By creating the Commission, Congress mandated that all parties involved partner together to find new and innovative solutions to the unique infrastructure and economic development challenges in America's most remote communities. Consistent with its statutory mission, in September of 2015 President Obama designated the Denali Commission as the lead federal agency for coordinating federal efforts to mitigate the impacts of erosion, flooding and permafrost degradation in rural Alaska. The primary goal is to build climate resilience with respect to infrastructure in environmentally threatened communities.

Pursuant to the Act, the Commission determines its own basic operating principles and funding criteria on an annual federal fiscal year (October 1 to September 30) basis. The Commission outlines these priorities and funding recommendations in an annual Work Plan. The FY 2016 Work Plan was developed in the following manner.

- A workgroup comprised of Denali Commissioners and Denali Commission staff developed a preliminary draft Work Plan.
- The preliminary draft Work Plan was published on *www.denali.gov* for review by the public in advance of public testimony.

- A public hearing was held to record public comments and recommendations on the preliminary draft Work Plan.
- Written comments on the preliminary draft Work Plan were accepted for another two weeks after the public hearing.
- All public hearing comments and written comments were provided to Commissioners for their review and consideration.
- Commissioners discussed the preliminary draft Work Plan in a public meeting and then voted on the Work Plan during the meeting.
- The Commissioners forwarded their recommended Work Plan to the Federal Co-Chair, who then prepared the draft Work Plan for publication in the **Federal Register** providing a 30-day period for public review and written comment. During this time, the draft Work Plan will also be disseminated to Commission program partners including, but not limited to, the Bureau of Indian Affairs (BIA), the Economic Development Administration (EDA), Department of Agriculture—Rural Utilities Service (USDA/RUS), and the State of Alaska.
- At the conclusion of the **Federal Register** Public comment period Commission staff provides the Federal Co-Chair with a summary of public comments and recommendations, if any, on the draft Work Plan.
- If no revisions are made to the draft, the Federal Co-Chair provides notice of approval of the Work Plan to the Commissioners, and forwards the Work Plan to the Secretary of Commerce for approval; or, if there are revisions the Federal Co-Chair provides notice of modifications to the Commissioners for their consideration and approval, and upon receipt of approval from Commissioners, forwards the Work Plan to the Secretary of Commerce for approval.
- The Secretary of Commerce approves the Work Plan.
- The Federal Co-Chair then approves grants and contracts based upon the approved Work Plan.

FY 2016 Appropriations Summary

The Commission has historically received federal funding from several sources.

These fund sources are governed by the following general principles:

- In FY 2016 no project specific direction was provided by Congress.
- The Energy and Water Appropriation (*i.e.* "discretionary" or "base" funding) is eligible for use in all programs.
- Certain appropriations are restricted in their usage. Where restrictions apply, the funds may be used only for specific program purposes.
- Final appropriation funds received may be reduced due to Congressional action, rescissions by the Office of Management and Budget, and other federal agency action.
- All Energy and Water Appropriation and Trans-Alaska Pipeline Liability (TAPL) funds, including operating funds, identified in the Work Plan, are "up to" amounts, and may be reassigned to other programs included in the current year work plan, if they are not fully expended in a program component area or a specific project.

DENALI COMMISSION FY 2016 FUNDING SUMMARY

Source	*Available for program activities*
Energy & Water Funds:	
FY 2016 Appropriations	$8,000,000
Prior Year Funds and Anticipated Recoveries	2,000,000
Subtotal	10,000,000
TAPL Funds:	
FY 2016 Annual Allocation	11,500,000
Prior Year Allocation.	
Prior Year Funds and Anticipated Recoveries	1,000,000
Subtotal	12,500,000
Grand Total	22,500,000

DENALI COMMISSION FY 2016 WORK PLAN

Program and type of investment	*Energy & water funds*	*TAPL funds*	*Total*
Energy:			
New Rural Power System Upgrade (RPSU) Projects	$2,800,000		$2,800,000
RPSU Maintenance & Improvements	500,000		500,000
Audits, Technical Assistance, & Community Energy Efficiency Projects	500,000		500,000
New & Refurbishment Bulk Fuel Projects		*3,400,000	3,400,000
Bulk Fuel Maintenance & Improvements		1,000,000	1,000,000
Bulk Fuel Operations & Maintenance Practices	200,000	250,000	450,000
Subtotal	4,000,000	4,650,000	8,650,000
Transportation:			
Barge Landings & Mooring Points		7,200,000	7,200,000
Subtotal	0	7,200,000	7,200,000
Environmentally Threatened Communities:			
Mertarvik	2,870,000	150,000	3,020,000
Shaktoolik	520,000	500,000	1,020,000
Shishmaref	520,000		520,000
Kivalina	520,000		520,000
Other Communities in GAO Report 09–551	490,000		490,000
Statewide Activities/Support	1,080,000		1,080,000
Subtotal	**6,000,000	650,000	6,650,000
Grand Total	10,000,000	12,500,000	22,500,000

** $1M from prior year funds and anticipated recoveries directed to the AEA Kipnuk Bulk Fuel Project.*
*** $2M from prior year funds, $1,080,000 of which is for Statewide Activities/Support.*

Environmentally Threatened Communities Program—Draft FY 2016 Investment Plan

In order to fulfill its role as lead federal coordinating agency the Denali Commission staff, in consultation with State, Federal, and other partners, and the referenced communities in particular, proposes the following investments in support of the new Environmentally Threatened Communities (ETC) Program. United States Government Accountability Office (GAO) Report 09–551 (*http://www.gao.gov/products/GAO-09-551*) was instrumental in charting prospective Commission investments.

Mertarvik

The community of Newtok has initiated its relocation to Mertarvik and has started building infrastructure at Mertarvik. The Commission funds summarized above plus $475,000 of USDA/RUS funds that the Commission has in hand, will be used to supplement approximately $4.8M from existing State of Alaska Legislative grants and re-appropriations, $4.0M from the BIA Tribal Transportation Program, and $3.5M of disaster relief funding from the Federal Emergency Management Agency (FEMA) and the State of Alaska. The Commission and USDA funds will be used for the following activities:

- Preparation of Programmatic Environmental Documentation for the overall relocation effort that will allow other Federal agencies to adopt the document for their investments.
- Development of a final Site Plan and Official Plat that is consistent with ultimate utility development, road construction and community development.
- Geotechnical investigation to supplement existing information will allow efficient design of roads, building foundations, and other infrastructure.
- Development of the Borrow Site (quarry).
- Support for the existing Community Relocation Coordinator, Project Management Services, preparation of Emergency Response Plans, and conducting Emergency Response Drills.
- Design of a Bulk Fuel Storage Facility.
- Preliminary design of community power, water, sewer and solid waste facilities.
- Match/gap funds for other related activities identified by the Community.

Shaktoolik

The community of Shaktoolik has decided to protect the community in place for now.

The Commission funds summarized above will be used for the following activities:

- Support for the existing Community Relocation Coordinator, preparation of Emergency Response Plans, and conducting Emergency Response Drills.
- "Soft Erosion" protection measures.
- Design of a consolidated fuel storage facility above the 100-year flood level.
- Match/gap funds for other related activities identified by the Community.

Shishmaref

Shishmaref is considering relocation but has not yet selected a new site. The Commission funds summarized above will be used for the following activities:

- Support for the existing Community Relocation Coordinator, preparation of Emergency Response Plans, and conducting Emergency Response Drills.
- Local match for existing US Army Corps of Engineers (USACE) funds for a site specific 100-year Flood Analysis.
- Local match for existing USACE funds to design Phases 3 and 4 of an armor rock revetment to protect the island.
- Match/gap funds for other related activities identified by the Community.

Kivalina

Kivalina is considering relocation and has selected a site for a new school. The Commission funds summarized above will be used for the following activities:

- Support for the existing Community Relocation Coordinator, preparation of Emergency Response Plans, and conducting Emergency Response Drills.
- Local match for existing USACE funds for a site specific 100-year Flood Analysis.
- Local match for existing USACE funds to design an armor rock revetment to protect the lagoon side of the island.
- Match/gap funds for other related activities identified by the Community.

Other Communities in the 2009 GAO Report

The Commission funds summarized above will be used for the following activities in support of protect in place projects for the 27 other communities in GAO Report 09–551:

- Develop and/or update FEMA Hazard Mitigation Plans and Emergency Operation/Response Plans.
- Develop site specific project design, budget and schedules for two projects based on existing FEMA approved Hazard Mitigation Plans.

Statewide

It is well known that there are other communities in rural Alaska not mentioned in the 2009 GAO Report that have infrastructure threatened due to erosion, flooding and permafrost degradation. The Commission intends to make $1,080,000 of prior year discretionary funding available for a statewide Disaster Response Fund that can be used to respond quickly, or to provide matching funds to compliment other funders for ETC disaster response and recovery, and other statewide initiatives such as the following.

- Develop a general Community Prioritization Methodology based on the threats due to erosion, flooding and permafrost degradation. This tool will be used to expand the 2009 GAO list, and by other funding agencies to allocate future resources.
- Support for the State of Alaska Immediate Action Working Group (IAWG).
- Support for two full time employees at a Grant Writing Center of Excellence that will focus on developing grant proposals for ETC protect in place projects.

However, a final decision has not yet been made on the level of funding for disaster response/recovery verses the other potential statewide initiatives.

Statement Regarding FY 2017 Work Plan

The Federal Co-Chair and staff anticipate that the Commission's investments in FY 2017 will focus on the Energy and ETC Programs, with at least $5M for ETC. Current ideas for FY 2017 ETC initiatives and activities are summarized below. Of course, the agency will need to vet the proposed investments with each community in question, the State of Alaska, and the Commissioners.

1. Mertarvik community development.
2. Conceptual design and other pre-construction activities for a prototype emergency shelter facility that could be site adapted for construction in Shishmaref, Kivalina and Shaktoolik.
3. Mertarvik, Shishmaref, Kivalina, and Shaktoolik match/gap funding.
4. Pre-construction activities for protect in place projects for the 31 communities identified in GAO Report 09–550.
5. Statewide ETC investments.

Joel Neimeyer,

Federal Co-Chair.

[FR Doc. 2016–09708 Filed 4–25–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF EDUCATION

Applications for New Awards; Performance Partnership Pilots

AGENCY: Office of Career, Technical, and Adult Education, Department of Education.

ACTION: Notice.

Overview Information:

Performance Partnership Pilots

Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.420A.

Dates:

Applications Available: April 26, 2016.

Deadline for Notice of Intent to Apply: May 26, 2016.

Note: Submission of a notice of intent to apply is optional.

Deadline for Transmittal of Applications: June 27, 2016.

Deadline for Intergovernmental Review: August 24, 2016.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: Performance Partnership Pilots (P3), first authorized by Congress for FY 2014 by the Consolidated Appropriations Act, 2014 (2014 Appropriations Act) and reauthorized for FY 2015 by the Consolidated and Further Continuing Appropriations Act, 2015 (2015 Appropriations Act) and for FY 2016 by the Consolidated Appropriations Act, 2016 (2016 Appropriations Act) (together, the Acts), enable pilot sites to test innovative, outcome-focused strategies to achieve significant improvements in educational, employment, and other key outcomes for disconnected youth using new flexibility to blend existing Federal funds and to seek waivers of associated program requirements.

Background: The Acts authorize the Departments of Education (ED), Labor (DOL), Health and Human Services (HHS), Housing and Urban Development (HUD),[1] and Justice (DOJ),[2] the Corporation for National and Community Service (CNCS), and the Institute of Museum and Library Services (IMLS) (collectively, the Agencies), to enter into Performance Partnership Agreements (performance agreements) with State, local, or tribal governments to provide additional flexibility in using certain of the Agencies' discretionary funds,[3] including competitive and formula grant funds, across multiple Federal programs. Entities that seek to participate in these pilots will be required to commit to achieving significant improvements in outcomes for disconnected youth in exchange for this new flexibility. The authorizing statute states that " '[t]o improve outcomes for disconnected youth' means to increase the rate at which individuals between the ages of 14 and 24 (who are low-income and either homeless, in foster care, involved in the juvenile justice system, unemployed, or not enrolled in or at risk of dropping out of an educational institution) achieve success in meeting educational, employment, or other key goals."

Government and community partners have invested considerable attention and resources to meet the needs of disconnected youth. However, practitioners, youth advocates, and others on the front lines of service delivery have observed that flexibility can be a key tool to address certain programmatic and administrative obstacles to achieving meaningful improvements in education, employment, health, and well-being for these young people.

P3 tests the hypothesis that additional flexibility for States, local governments, and tribes, in the form of blending funds and waivers of certain programmatic requirements, can help overcome some of the significant hurdles that States, local governments, and tribes face in providing intensive, comprehensive, and sustained service pathways and improving outcomes for disconnected youth. For example, P3 can be used to better coordinate and align the multiple systems that serve youth. P3 may help address the "wrong pockets" problem, where entities that observe improved outcomes or other benefits due to an intervention are unable to use Federal funds to support that intervention due to program restrictions. P3 flexibility may also allow the testing of an innovative approach to help to build additional evidence about what works. If this hypothesis proves true, providing necessary and targeted flexibility to remove or overcome these hurdles will help to achieve significant benefits for disconnected youth, the communities that serve them, and the involved agencies and partners.

The statutory definition of "disconnected youth" specifically identifies several high-need subpopulations of low-income youth, including youth who are homeless, youth in foster care, youth involved in the juvenile justice system, and youth who are unemployed or not in school or at risk of dropping out. We wish to note that there are a number of other high-need subpopulations of disconnected youth who are at risk of dropping out. For example, English learners (ELs) are at great risk of dropping out; the average cohort graduation rate for ELs during the 2013–14 school year was only 62.6 percent, while the national average cohort graduation rate for all youth was 82.3 percent. Similarly, the average cohort graduation rate for youth with a disability receiving special education and related services under the Individuals with Disabilities Education Act (IDEA) was significantly lower than that of youth who did not receive services under IDEA: 63.1 percent during the 2013–14 school year.[4] Immigrants and refugees are another high-need subpopulation at great risk of dropping out. In 2014, the status dropout rate of immigrant youth ages 16 to 24 was 12 percent, compared with 8 percent for children of foreign-born parents, and 6 percent for children with native-born parents.[5] Applicants wishing to serve a subpopulation of disconnected youth at risk of dropping out—such as the examples above—should consider whether that subpopulation faces an elevated risk of dropping out based on sound research.

FY 2015 and FY 2016 Funds

This notice invites applications for a second round of pilots as authorized by the 2015 Appropriations Act. That Act extended the P3 authority to allow pilots to include eligible FY 2015 funds from programs at ED, DOL, HHS, CNCS, and IMLS. Applicants may also include FY 2016 funds in their applications, including programs funded under DOJ's Office of Justice Programs,[6] due to the authority in the 2016 Appropriations Act. However, if an applicant intends to use solely FY 2016 funds, it is not eligible to be a second-round pilot.

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[1] The 2016 Appropriations Act authorizes HUD to enter into performance agreements with respect to FY 2016 Homeless Assistance Grants. HUD is not authorized to enter into performance agreements that will be established under this notice. A notice inviting applications for FY 2016 pilots that may include FY 2016 Homeless Assistance Grants is expected to be issued later this year.

[2] DOJ was first authorized to enter into performance agreements by the 2015 Appropriations Act.

[3] Discretionary funds are funds that Congress appropriates on an annual basis, rather than through a standing authorization. They exclude "entitlement" (or mandatory) programs such as Social Security, Medicare, Medicaid, most Foster Care IV–E programs, Vocational Rehabilitation State Grants, and Temporary Assistance to Needy Families (TANF). Discretionary programs administered by the Agencies support a broad set of public services, including education, job training, health and mental health, and other low-income assistance programs.

[4] EDFacts/Consolidated State Performance Report, School Year 2013–14. Retrieved from *nces.ed.gov/ccd/tables/ACGR_RE_and_characteristics_2013-14.asp*

[5] Child Trends Data Bank (2015). High School Dropout Rates. Retrieved from *www.childtrends.org/wp-content/uploads/2014/10/01_Dropout_Rates.pdf*

Separately, in addition to this competition, we intend to publish in the coming months a notice inviting applications for the third round of pilots that propose to use funds appropriated for FY 2016, including FY 2016 funds made available under Homeless Assistance Grants at the Department of Housing and Urban Development.

Absolute Priorities

For purposes of this competition, absolute priorities create separate categories for scoring and considering applications. Because a diverse group of communities could benefit from P3, we include absolute priorities for applications that propose to serve disconnected youth in one or more rural communities only (Absolute Priority 2), applications that propose to serve disconnected youth in one or more Indian tribes (Absolute Priority 3), and applications that propose to serve disconnected youth in other communities (Absolute Priority 1). P3 is intended, through a demonstration, to identify effective strategies for serving disconnected youth. We are aware such strategies may differ across environments and wish to test the authority in a variety of settings.

In this FY 2015 competition, we are also including an absolute priority for communities that have experienced recent civil unrest (Absolute Priority 4), consistent with requirements of the 2016 Appropriations Act.[7] Though the economy has recovered strongly in many places, many communities continue to struggle with high youth unemployment, low graduation rates, and crime. These and other continuing challenges can manifest in different instances of civil unrest, such as large protests or instances of civil disobedience increases in self-directed or interpersonal violence in concentrated areas, or civic disorder prompted by a public health emergency. In response to the priority, an applicant should describe the instance(s) of civil unrest, including (1) a description of the civil unrest that occurred in the community or communities it intends to serve; and (2) the date or dates the civil unrest occurred. We include this priority in the FY 2015 P3 competition in the hopes that P3 flexibilities, including waivers and the blending and braiding of funds, will empower communities to improve educational and employment outcomes for disconnected youth in these communities.

Competitive Preference Priorities

Competitive preference priorities allow applicants to receive extra points for satisfying certain criteria.

Competitive Preference Priority 1

In addition to the absolute priorities, we also include four competitive preference priorities. We include a competitive preference priority for projects that serve those disconnected youth who are neither employed nor enrolled in education and who also face significant barriers to accessing education and employment and that are likely to result in significantly better educational or employment outcomes for such youth. Significant barriers to accessing education and employment could include, for example, a disability. An analysis of 2014 Current Population Survey data found that about one-third (34 percent) of youth ages 16 to 24 who were neither employed nor enrolled in school in 2014 reported that illness or disability was a major reason why they did not work.[8] Living in a neighborhood with a high concentration of poverty is another barrier. Research indicates that individuals who reside in high-poverty neighborhoods often have diminished access to employment options and high-quality educational opportunities.[9] Involvement with the justice system is another example of a significant barrier to education and employment for youth who are neither employed nor enrolled in school. Many youth involved with the justice system face significant barriers to accessing the education and training they need to achieve independence and reintegrate into the community because the education and training available to them through correctional facilities, as well as upon release, often does not meet their needs.[10] For older youth involved with the adult criminal justice system, having a criminal record can severely limit the ability to secure employment.[11] Reconnecting these young people to education and employment is a national imperative, and including this priority as a competitive preference priority will create incentives for applicants and communities to design projects to serve this hard-to-reach population.

Competitive Preference Priority 2

We include a competitive preference priority for projects that provide all disconnected youth served by the project with paid work-based learning opportunities because addressing the employment needs of disconnected youth is critical to improving their well-being and preparing them for lives as productive adults. We note as well that new evidence indicates that the benefits of work-based learning opportunities extend beyond improving the employment outcomes of youth. A recent evaluation of the summer work and learning opportunity program offered by New York City for youth ages 14 through 21, which selected participants using a randomized lottery, found that, within five to eight years after participation, the incarceration and mortality rates of participants were significantly lower than those of their peers who were not selected to participate in the program.[12] For youth who are not enrolled in school, year-round employment, and not just employment during the summer, is critically important. The work-based learning opportunities must be integrated with academic and technical instruction because research suggests that work experience must be combined with academic and technical training in order to have a positive impact on the employment and earnings outcomes of youth.[13]

Competitive Preference Priority 3

This competition also includes a competitive preference priority for projects that are designed to serve and coordinate with a federally designated Promise Zone. Promise Zone designees have committed to establishing comprehensive, coordinated approaches in order to ensure that America's most vulnerable children succeed from cradle to career. Thirteen Promise Zones have been designated. They are located in: The Choctaw Nation of Oklahoma; Los Angeles, California; Sacramento, California; Hartford, Connecticut; Indianapolis, Indiana; the Kentucky Highlands in Kentucky; Minneapolis, Minnesota; St. Louis and St. Louis County, Missouri; Camden, New Jersey; Philadelphia, Pennsylvania; Barnwell, South Carolina; Porcupine, South Dakota; and San Antonio, Texas. Additional Promise Zones are expected to be designated later this year. The Promise Zone designation is designed to assist local leaders in creating jobs, increasing economic activity, improving educational opportunities, leveraging private investment, and reducing violent crime in high-poverty urban, rural, and tribal communities.[14]

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[6] Under the language of the 2015 Appropriations Act, applicants may not propose to blend or request any waiver of program requirements associated with FY 2015 funds from DOJ's Office of Justice Programs. However, they may propose to braid those funds in this round of pilots.

[7] The 2016 Appropriations Act states that the FY 2015 cohort of P3 pilots is to include communities that have recently experienced civil unrest.

[9] Federal Reserve System and Brookings Institution (2008). The Enduring Challenge of Concentrated Poverty in America: Case Studies from Communities Across the U.S. Washington, DC: Authors. Retrieved from *www.frbsf.org/community-development/files/cp_fullreport.pdf.*

[10] See, for example, Juvenile Justice Students Face Barriers to High School Graduation and Job Training (2010). Report No. 10–55. Tallahassee, FL: Office of Program Policy Analysis and Government Accountability, the Florida Legislature, Retrieved from: *www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1055rpt.pdf.*

[11] See, for example, Pager, D.P. and Western, B. (2009). Investigating Prisoner Reentry: The Impact of Conviction Status on the Employment Prospects of Young Men: Final Report to the National Institute of Justice. Document No.: 228584. Retrieved from: *www.ncjrs.gov/pdffiles1/nij/grants/228584.pdf.*

[12] Gelber, A., Isen, A. and Kessler, J.B. (2014). The Effects of Youth Employment: Evidence from New York City Summer Youth Employment. Program Lotteries. NBER Working Paper No. 20810. Cambridge, MA: National Bureau of Economic Research.

[13] Sattar, S. (2010). Evidence Scan of Work Experience Programs. Oakland, CA: Mathematica Policy Research. See also Roder, A. and Elliott, M. (2014). Sustained Gains: Year-Up's Continued Impact on Young Adults' Earnings. New York, NY: Economic Mobility Corporation, Inc.

Competitive Preference Priority 4

This competition also includes a competitive preference priority for applicants that plan to conduct independent impact evaluations of at least one service-delivery or operational component of their pilots (site-specific evaluation), in addition to participating in any national P3 evaluation, which is discussed in the *Program Requirements* section of this notice. In proposing these site-specific impact evaluations, applicants should use the strongest possible designs and research methods and use high-quality administrative data in order to maximize confidence in the evaluation findings and minimize the costs of conducting these evaluations. Federal start-up funds and blended funds may be used to finance these evaluations.

Priorities: This competition includes four absolute priorities, four competitive preference priorities, and two invitational priorities. Absolute Priorities 1, 2 and 3 and Competitive Preference Priorities 1, 2 and 4 are from the notice of final priorities, requirements, definitions, and selection criteria for this program published elsewhere in this issue of the **Federal Register** (P3 NFP). Absolute Priority 4 is from section 525(b) of Division H of the 2016 Appropriations Act. Competitive Preference Priority 3 is from notice of final priority—Promise Zones, published in the **Federal Register** on March 27, 2014 (79 FR 17035) (Promise Zones NFP).

Absolute Priorities: These priorities are considered absolute priorities for FY 2015 and any subsequent year for which we make awards from the list of unfunded applicants from this competition. Under 34 CFR 75.105(c)(3) we consider only applications that meet Absolute Priority 1, 2, 3, or 4.

Note: Applicants must indicate in their application which absolute priority they are applying under. If an applicant applies under Absolute Priorities 2, 3, or 4, but is not eligible under that absolute priority, the applicant will still be considered for funding under Absolute Priority 1.

These priorities are:

Absolute Priority 1—Improving Outcomes for Disconnected Youth.

To meet this priority, an applicant must propose a pilot that is designed to improve outcomes for disconnected youth.

Absolute Priority 2—Improving Outcomes for Disconnected Youth in Rural Communities.

To meet this priority, an applicant must propose a pilot that is designed to improve outcomes for disconnected youth in one or more rural communities (as defined in this notice) only.

Note: An applicant should describe in its application how it meets the priority.

Absolute Priority 3—Improving Outcomes for Disconnected Youth in Tribal Communities.

To meet this priority, an applicant must (1) propose a pilot that is designed to improve outcomes for disconnected youth who are members of one or more State- or federally-recognized Indian tribal communities; and (2) represent a partnership that includes one or more State- or federally-recognized Indian tribes.

Absolute Priority 4—Improving Outcomes for Disconnected Youth in Communities that Have Recently Experienced Civil Unrest.

To meet this priority, an applicant must propose a pilot that is designed to improve outcomes for disconnected youth in one or more communities that have recently experienced civil unrest.

Competitive Preference Priorities: For FY 2015 and any subsequent year for which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional five points to an application based on how well the application meets Competitive Preference Priority 1, an additional three points to an application that meets Competitive Preference Priority 2, an additional two points to an application that meets Competitive Preference Priority 3, and up to an additional 10 points to an application based on how well the application meets Competitive Preference Priority 4.

Applicants may address more than one of the competitive preference priorities. An applicant must identify in the in the Appendix section of its application, under "Other Attachments Form," the priority or priorities it addresses.

Competitive Preference Priority 1—Improving Outcomes for Youth Who Are Unemployed and Out of School (Up to 5 points).

To meet this priority, an applicant must propose a pilot that—

(1) will serve disconnected youth who are neither employed nor enrolled in education and who face significant barriers to accessing education and employment; and

(2) is likely to result in significantly better educational or employment outcomes for such youth.

Competitive Preference Priority 2—Work-Based Learning Opportunities (0 or 3 points).

To meet this priority, an applicant must propose a pilot that will provide all of the disconnected youth it proposes to serve with paid work-based learning opportunities, such as opportunities during the summer, which are integrated with academic and technical instruction.

Competitive Preference Priority 3—Promise Zones (0 or 2 points).

This priority is for projects that are designed to serve and coordinate with a federally designated Promise Zone.

Competitive Preference Priority 4—Site-Specific Evaluation (Up to 10 points).

To meet this priority, an applicant must propose to conduct an independent evaluation of the impacts on disconnected youth of its overall program or specific components of its program that is a randomized controlled trial or a quasi-experimental design study. The extent to which an applicant meets this priority will be based on the clarity and feasibility of the applicant's proposed evaluation design, the appropriateness of the design to best capture key pilot outcomes, the prospective contribution of the evaluation to the knowledge base about serving disconnected youth (including the rigor of the design and the validity and generalizability of the findings), and the applicant's demonstrated expertise in planning and conducting a randomized controlled trial or quasi-experimental evaluation study.

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[14] For additional information on Promise Zones, see *www.whitehouse.gov/the-press-office/2014/01/08/fact-sheet-president-obama-s-promise-zones-initiative.*

In order to meet this priority, an applicant also must include the following two documents as separate attachments to its application:

1. A Summary Evaluation Plan that describes how the pilot or a component of the pilot (such as a discrete service-delivery strategy) will be rigorously evaluated. The evaluation plan may not exceed eight pages. The plan must include the following:

- A brief description of the research question(s) proposed for study and an explanation of its/their relevance, including how the proposed evaluation will build on the research evidence base for the project as described in the application and how the evaluation findings will be used to improve program implementation;
- A description of the randomized controlled trial or quasi-experimental design study methodology, including the key outcome measures, the process for forming a comparison or control group, a justification for the target sample size and strategy for achieving it, and the approach to data collection (and sources) that minimizes both cost and potential attrition;
- A proposed evaluation timeline, including dates for submission of required interim and final reports;
- A description of how, to the extent feasible and consistent with applicable Federal, State, local, and tribal privacy requirements, evaluation data will be made available to other, third-party researchers after the project ends; and
- A plan for selecting and procuring the services of a qualified independent evaluator (as defined in this notice) prior to enrolling participants (or a description of how one was selected if agreements have already been reached). The applicant must describe how it will ensure that the qualified independent evaluator has the capacity and expertise to conduct the evaluation, including estimating the effort for the qualified independent evaluator. This estimate must include the time, expertise, and analysis needed to successfully complete the proposed evaluation.

2. A supplementary Evaluation Budget Narrative, which is separate from the overall application budget narrative and provides a description of the costs associated with funding the proposed program evaluation component, and an explanation of its funding source—*i.e.*, blended funding, start-up funding, State, local, or tribal government funding, or other funding (such as philanthropic). The budget must include a breakout of costs by evaluation activity (such as data collection and participant follow-up), and the applicant must describe a strategy for refining the budget after the services of an evaluator have been procured. The applicant must include travel costs for the qualified independent evaluator to attend at least one in-person conference in Washington, DC during the period of evaluation. All costs included in this supplementary budget narrative must be reasonable and appropriate to the project timeline and deliverables.

The Agencies will review the Summary Evaluation Plans and Evaluation Budget Narratives and provide feedback to applicants that are determined to have met the priority and that are selected as pilots. After award, these pilots must submit to the lead Federal agency a detailed evaluation plan of no more than 30 pages that relies heavily on the expertise of a qualified independent evaluator. The detailed evaluation plan must address the Agencies' feedback and expand on the Summary Evaluation Plan.

[Approved by the Office of Management and Budget under control number 1830–0575]

Invitational Priorities:

For FY 2015 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

Invitational Priority 1—Improving Outcomes for Homeless Youth.

To meet this priority, an applicant must propose a pilot that—

(1) will serve disconnected youth who are homeless youth (as defined in this notice); and

(2) is likely to result in significantly better educational or employment outcomes for such youth.

Invitational Priority 2—Improving Outcomes for Youth Involved in the Justice System.

To meet this priority, an applicant must propose a pilot that—

(1) will serve disconnected youth who are involved in the justice system; and

(2) is likely to result in significantly better educational or employment outcomes for such youth.

Application Requirements:

The application requirements for this competition are from the P3 NFP. Any application that does not include the required documents or information will not be considered.

(a) *Executive Summary.* The applicant must provide an executive summary that briefly describes the proposed pilot, the flexibilities being sought, and the interventions or systems changes that would be implemented by the applicant and its partners to improve outcomes for disconnected youth.

(b) *Target Population.* The applicant must complete Table 1, specifying the target population(s) for the pilot, including the age range of youth who will be served and the estimated number of youth who will be served over the course of the pilot.

TABLE 1—TARGET POPULATION

Target population	Age range	Estimated number of youth served over the course of the pilot

(c) *Flexibility, including waivers:*

1. *Federal requests for flexibility, including waivers.* For each program to be included in a pilot, the applicant must complete Table 2, Requested Flexibility. The applicant must identify two or more discretionary Federal programs that will be included in the pilot, at least one of which must be administered (in whole or in part) by a State, local, or tribal government.[15] The applicant must identify one or more program requirements that would inhibit implementation of the pilot and request that the requirement(s) be waived in whole or in part. Examples of potential waiver requests and other requests for flexibility include, but are not limited to: Blending of funds and changes to align eligibility requirements, allowable uses of funds, and performance reporting.

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[15] Local governments that are requesting waivers of requirements in State-administered programs are strongly encouraged to consult with the State agencies that administer the programs in preparing their applications.

TABLE 2—REQUESTED FLEXIBILITY

Program name	Federal agency	Program requirements to be waived in whole or in part	Statutory or regulatory citation	Name of program grantee	Blending funds? (Yes/No)

Note: Please note in "Name of Program Grantee" if the grantee is a State, local, or tribal government, or non-governmental entity.

2. *Non-Federal flexibility, including waivers.* The applicant must provide written assurance that:

A. The State, local, or tribal government(s) with authority to grant any needed non-Federal flexibility, including waivers, has approved or will approve such flexibility within 60 days of an applicant's designation as a pilot finalist;[16] or

B. Non-Federal flexibility, including waivers, is not needed in order to successfully implement the pilot.

(d) *Logic Model.* The applicant must provide a graphic depiction (not longer than one page) of the pilot's logic model that illustrates the underlying theory of how the pilot's strategy will produce intended outcomes.

(e) *Partnership Capacity and Management.* The applicant must—

1. Identify the proposed partners, including any and all State, local, and tribal entities and non-governmental organizations that would be involved in implementation of the pilot, and describe their roles in the pilot's implementation using Table 3. Partnerships that cross programs and funding sources but are under the jurisdiction of a single agency or entity must identify the different sub-organizational units involved.

2. Provide a memorandum of understanding or letter of commitment signed by the executive leader or other accountable senior representative of each partner that describes each proposed partner's commitment, including its contribution of financial or in-kind resources (if any).

TABLE 3—PILOT PARTNERS

Partner	Type of Organization (State agency, local agency, community-based organization, business)	Description of Partner's Role in the Pilot

Note: Any grantees mentioned in Table 2 that are not the lead applicant must be included in Table 3.

(f) *Data and Performance Management Capacity.*

The applicant must propose outcome measures and interim indicators to gauge pilot performance using Table 4. At least one outcome measure must be in the domain of education, and at least one outcome measure must be in the domain of employment. Applicants may specify additional employment and education outcome measures, as well as outcome measures in other domains of well-being, such as criminal justice, physical and mental health, and housing. Regardless of the outcome domain, applicants must identify at least one interim indicator for each proposed outcome measure. Applicants may apply one interim indicator to multiple outcome measures, if appropriate.

Examples of outcome measures and interim indicators follow. Applicants may choose from this menu or may propose alternative indicators and outcome measures if they describe why their alternatives are more appropriate for their proposed projects.

EDUCATION DOMAIN

Outcome measure	Interim indicator
High school diploma or equivalency attainment	• High school enrollment. • Reduction in chronic absenteeism. • Grade promotion. • Performance on standardized assessments. • Grade Point Average. • Credit accumulation.
College completion	• Enrollment. • Course attendance. • Credit accumulation. • Retention.

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[16] This includes, for example, for local governments, instances in which a waiver must be agreed upon by a State. It also includes instances in which waivers may only be requested by the State on the local government's behalf, such as waivers of the performance accountability requirements for local areas established in Title I of the Workforce Innovation and Opportunity Act.

EMPLOYMENT DOMAIN

Outcome measure	Interim indicator
Sustained Employment	• Unsubsidized employment at time periods after exit from the program. • Median earnings at time periods after exit from the program.

The specific outcome measures and interim indicators the applicant uses should be grounded in its logic model, and informed by applicable program results or research, as appropriate. Applicants must also indicate the source of the data, the proposed frequency of collection, and the methodology used to collect the data.

TABLE 4—OUTCOME MEASURES AND INTERIM INDICATORS

Domain	Outcome measure	Interim indicator(s)
Education	Data Source: Frequency of Collection: Methodology:	Data Source: Frequency of Collection: Methodology:
Employment	Data Source: Frequency of Collection: Methodology:	Data Source: Frequency of Collection: Methodology:
Other	Data Source: Frequency of Collection: Methodology:	Data Source: Frequency of Collection: Methodology:

(g) *Budget and Budget Narrative.*

1. The applicant must complete Table 5 to provide the following budget information:

A. For each Federal program, the grantee, the amount of funds to be blended or braided, the percentage of total program funding received by the grantee that the amount to be blended or braided represents, the Federal fiscal year of the award, and whether the grant has already been awarded; and

B. The total amount of funds from all Federal programs that would be blended or braided under the pilot.

TABLE 5—FEDERAL FUNDS

Program name	Grantee	Amount of funds to be blended	Blended funds as a percentage of grantee's total award	Federal fiscal year of award	Grant already awarded? (Y/N)
Total Blended					
Program name	**Grantee**	**Amount of funds to be blended**	**Blended funds as a percentage of grantee's total award**	**Federal fiscal year of award**	**Grant already awarded? (Y/N)**
Total Braided					

Note: Applicants may propose to expand the number of Federal programs supporting pilot activities using future funding beyond FY 2016, which may be included in pilots if Congress extends the P3 authority.

[Approved by the Office of Management and Budget under control number 1830–0575]

Program Requirements:

(a) *National evaluation.* In addition to any site-specific evaluations that pilots may undertake, the Agencies may initiate a national P3 evaluation of the pilots selected in Round 2, as well as those selected in subsequent rounds.[17]

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[17] The initiation of any federally sponsored national P3 evaluation activities is dependent upon the availability of sufficient funds and resources.

Each P3 pilot must participate fully in any federally sponsored P3 evaluation activity, including the national evaluation of P3, which will consist of the analysis of participant characteristics and outcomes, an implementation analysis at all sites, and rigorous impact evaluations of promising interventions in selected sites. The applicant must acknowledge in writing its understanding of these requirements by submitting the form provided in Appendix A, "Evaluation Commitment Form," as an attachment to its application.

[Approved by the Office of Management and Budget under control number 1830–0575]

(b) *Community of practice.* All P3 pilots must participate in a community of practice (as defined in this notice) that includes an annual in-person meeting of pilot sites (paid with grant funding that must be reflected in the pilot budget submitted) and virtual peer-to-peer learning activities. This commitment involves each pilot site working with the lead Federal agency on a plan for supporting its technical assistance needs, which can include learning activities supported by foundations or other non-Federal organizations as well as activities financed with Federal funds for the pilot.

(c) *Consent.* P3 pilots must secure necessary consent from parents, guardians, students, or youth program participants to access data for their pilots and any evaluations, in accordance with applicable Federal, State, local, and tribal laws. Applicants must explain how they propose to ensure compliance with Federal, State, local, and tribal privacy laws and regulations as pilot partners share data to support effective coordination of services and link data to track outcome measures and interim indicators at the individual level to perform, where applicable, a low-cost, high-quality evaluation.[18]

(d) *Performance agreement.* Each P3 pilot, along with other non-Federal government entities involved in the partnership, must enter into a performance agreement that will include, at a minimum, the following (as required by section 526(c)(2) of Division H of the 2014 Appropriations Act):

1. The length of the agreement;
2. The Federal programs and federally funded services that are involved in the pilot;
3. The Federal discretionary funds that are being used in the pilot;
4. The non-Federal funds that are involved in the pilot, by source (which may include private funds as well as governmental funds) and by amount;
5. The State, local, or tribal programs that are involved in the pilot;
6. The populations to be served by the pilot;
7. The cost-effective Federal oversight procedures that will be used for the purpose of maintaining the necessary level of accountability for the use of the Federal discretionary funds;
8. The cost-effective State, local, or tribal oversight procedures that will be used for the purpose of maintaining the necessary level of accountability for the use of the Federal discretionary funds;
9. The outcome (or outcomes) that the pilot is designed to achieve;
10. The appropriate, reliable, and objective outcome-measurement methodology that will be used to determine whether the pilot is achieving, and has achieved, specified outcomes;
11. The statutory, regulatory, or administrative requirements related to Federal mandatory programs that are barriers to achieving improved outcomes of the pilot; and
12. Criteria for determining when a pilot is not achieving the specified outcomes that it is designed to achieve and subsequent steps, including:
    i. The consequences that will result; and
    ii. The corrective actions that will be taken in order to increase the likelihood that the pilot will achieve such specified outcomes.

Applicants are advised that the Agencies expect to make the performance agreements available to the public.

Definitions: The following definitions are from the P3 NFP, the 2014 Appropriations Act, and 34 CFR 77.1.

Blended funding is a funding and resource allocation strategy that uses multiple existing funding streams to support a single initiative or strategy. Blended funding merges two or more funding streams, or portions of multiple funding streams, to produce greater efficiency and/or effectiveness. Funds from each individual stream lose their award-specific identity, and the blended funds together become subject to a single set of reporting and other requirements, consistent with the underlying purposes of the programs for which the funds were appropriated.

Braided funding is a funding and resource allocation strategy in which entities use existing funding streams to support unified initiatives in as flexible and integrated a manner as possible while still tracking and maintaining separate accountability for each funding stream. One or more entities may coordinate several funding sources, but each individual funding stream maintains its award-specific identity. Whereas blending funds typically requires one or more waivers of associated program requirements, braiding does not. However, waivers may be used to support more effective or efficient braiding of funds.

Community of practice means a group of pilots that agrees to interact regularly to solve persistent problems or improve practice in an area that is important to them and the success of their projects.

English learner means an individual who has limited ability in reading, writing, speaking, or comprehending the English language, and—

(A) Whose native language is a language other than English; or

(B) Who lives in a family or community environment where a language other than English is the dominant language.

Evidence-informed interventions bring together the best available research, professional expertise, and input from youth and families to identify and deliver services that have promise to achieve positive outcomes for youth, families, and communities.

Homeless youth has the same meaning as "homeless children and youths" in section 725(2) of the McKinney-Vento Education for Homeless Children and Youth Act of 2001 (42 U.S.C. 11434a(2)).

An *interim indicator* is a marker of achievement that demonstrates progress toward an outcome and is measured at least annually.

Interventions based on evidence are approaches to prevention or treatment that are validated by documented scientific evidence from randomized controlled trials, or quasi-experimental design studies or correlational studies, and that show positive effects (for randomized controlled trials and quasi-experimental design studies) or favorable associations (for correlational studies) on the primary targeted outcomes for populations or settings similar to those of the proposed pilot. The best evidence to support an applicant's proposed reform(s) and target population will be based on one or more randomized controlled trials. The next best evidence will be studies using a quasi-experimental design. Correlational analysis may also be used as evidence to support an applicant's proposed reforms.

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[18] To the extent feasible and consistent with applicable privacy requirements, grantees must also ensure the data from their evaluations are made available to third-party researchers.

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (*i.e.,* the active "ingredients" that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

Outcomes are the intended results of a program, or intervention. They are what applicants expect their projects to achieve. An outcome can be measured at the participant level (for example, changes in employment retention or earnings of disconnected youth) or at the system level (for example, improved efficiency in program operations or administration).

A *qualified independent evaluator* is an individual who coordinates with the grantee and the lead Federal agency for the pilot, but works independently on the evaluation and has the capacity to carry out the evaluation, including, but not limited to: Prior experience conducting evaluations of similar design (for example, for randomized controlled trials, the evaluator will have successfully conducted a randomized controlled trial in the past); positive past performance on evaluations of a similar design, as evidenced by past performance reviews submitted from past clients directly to the awardee; lead staff with prior experience carrying out a similar evaluation; lead staff with minimum credential (such as a Ph.D. plus three years of experience conducting evaluations of a similar nature, or a Master's degree plus seven years of experience conducting evaluations of a similar nature); and adequate staff time to work on the evaluation.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental design by identifying a comparison group that is similar to the treatment group in important respects. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards (as defined in this notice) with reservations (but not What Works Clearinghouse Evidence Standards without reservations).

Randomized controlled trial means a study that employs random assignment of, for example, students, teachers, classrooms, schools, or districts to receive the intervention being evaluated (the treatment group) or not to receive the intervention (the control group). The estimated effectiveness of the intervention is the difference between the average outcome for the treatment group and for the control group. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards (as defined in this notice) without reservations.

A *rural community* is a community that is served only by one or more local educational agencies (LEAs) that are currently eligible under the Department of Education's Small, Rural School Achievement (SRSA) program or the Rural and Low-Income School (RLIS) program authorized under the Elementary and Secondary Education Act of 1965 (ESEA), as amended, or includes only schools designated by the National Center for Education Statistics (NCES) with a locale code of 42 or 43.

A *waiver* provides flexibility in the form of relief, in whole or in part, from specific statutory, regulatory, or administrative requirements that have hindered the ability of a State, locality, or tribe to organize its programs and systems or provide services in ways that best meet the needs of its target populations. Under P3, waivers provide flexibility in exchange for a pilot's commitment to improve programmatic outcomes for disconnected youth consistent with underlying statutory authorities and purposes.

Program Authority: Section 524 of Division G and section 219 of Division B of the 2015 Appropriations Act and Section 219 of Division B and section 525 of Division H of the 2016 Appropriations Act.

Applicable Regulations:

(a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99, and such other regulations as the Agencies may apply based on the programs included in a particular pilot. (b) The Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The Promise Zones NFP. (e) The P3 NFP.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: Up to $3,050,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applicants from this competition.

Estimated Range of Awards: $250,000 to $350,000.

Estimated Average Size of Award: $300,000.

Estimated Number of Awards: 10.

Note: The Agencies are not bound by any estimates in this notice. ED may supplement one or more awards above the amount requested in the application if funds remain after ED has made awards to all of the pilots.

Project Period: Not to extend beyond September 30, 2019.

III. Eligibility Information

1. *Eligible Applicants:* The lead applicant must be a State, local, or tribal government entity, represented by a Chief Executive, such as a governor, mayor, or other elected leader, or the head of a State, local, or tribal agency.

2. *Cost-Sharing or Matching:* This program does not require cost-sharing or matching.

3. *Eligible Subgrantees:* (a) Under 75.708(b) and (c) a grantee may award subgrants—to directly carry out project activities described in its application—to the following types of entities: State governmental agencies; local governmental agencies, including local educational agencies; tribal governmental agencies; institutions of higher education; and nonprofit organizations.

(b) The grantee may award subgrants to entities it has identified in an approved application.

IV. Application and Submission Information

1. *Address to Request Application Package:* Marilyn Fountain, U.S. Department of Education, 400 Maryland Avenue SW., room 11026, PCP, Washington, DC 20202. Telephone: (202) 245–7346. Email address: *disconnectedyouth@ed.gov.* Or Rosanne Andre, U.S. Department of Education, 400 Maryland Avenue SW., room 11070, PCP, Washington, DC 20202. Telephone: (202) 245–7789. Email address: *disconnectedyouth@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting either of the program contact persons listed in this section.

2. a. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Notice of Intent to Submit an Application: May 26, 2016.

Note: Submission of a notice of intent to apply is optional. We will be able to develop a more efficient process for reviewing applications if we know the approximate number of applicants that intend to apply under this competition. Therefore, we strongly encourage each potential applicant to notify us of the applicant's intent to apply by emailing to *disconnectedyouth@ed.gov* the following information: (1) The applicant organization's name and address and (2) the absolute priority the applicant intends to address. Applicants that do not submit a notice of intent to apply may still submit an application.

Page Limit: The application narrative is where you, the applicant, provide the information specified in the application requirements and address the selection criteria that reviewers use to evaluate your application. It does not include the application cover sheet; the budget and budget narrative; the assurances and certifications; or the abstract, the absolute and competitive priorities, the resumes, the bibliography, or the letters of commitment and memoranda of understanding.

Page Limit: Applicants must limit the application narrative to no more than 45 pages, using the following standards:

- A "page" is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The page limit for the application narrative does not apply to the application cover sheet; the budget and budget narrative; the assurances and certifications; or the abstract, the absolute and competitive priorities, the resumes, the bibliography, or the letters of commitment and memoranda of understanding. However, the page limit does apply to all of the application narrative section.

Our reviewers will not read any pages of your application narrative that exceed the page limit.

b. *Submission of Proprietary Information:*

Given the types of projects that may be proposed in applications for P3, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define "business information" and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, and may make all applications available, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you feel is exempt from disclosure under Exemption 4 of the Freedom of Information Act. In the appropriate Appendix section of your application, under "Other Attachments Form," please list the page number or numbers on which we can find this information. For additional information, please see 34 CFR 5.11(c).

3. *Submission Dates and Times:*

Applications Available: April 26, 2016.

Deadline for Notice of Intent to Apply: May 26, 2016.

Note: Submission of a notice of intent to apply is optional.

Deadline for Transmittal of Applications: June 27, 2016.

Applications must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remain subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: August 24, 2016. 4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the P3 program, CFDA number 84.420A, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for P3 at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.420, not 84.420A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through Grants.gov, please refer to the Grants.gov Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the project narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. This notification indicates receipt by Grants.gov only, not receipt by the Department. Grants.gov will also notify you automatically by email if your application met all the Grants.gov validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by Grants.gov, the Department will retrieve your application from Grants.gov and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by Grants.gov, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, non-modifiable PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Marilyn Fountain, U.S. Department of Education, 400 Maryland Avenue SW., room 11026, PCP, Washington, DC 20202. FAX: (202) 245–7838. Or Rosanne Andre, U.S. Department of Education, 400 Maryland Avenue SW., Room 11070, PCP, Washington, DC 20202. FAX: (202) 245–7838.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.420A, LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.420A, 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria.* The selection criteria for this competition and any subsequent year for which we make awards from the list of unfunded applicants from this competition are from the P3 NFP.

The points assigned to each criterion are indicated in the parentheses next to the criterion. An applicant may earn up to 100 points based on the selection criteria. An applicant's final score will include both points awarded based on selection criteria and also any points awarded for the competitive preference priorities.

Selection Criteria

(a) *Need for Project.* In determining the need for the proposed project, we will consider the magnitude of the need of the target population, as evidenced by the applicant's analysis of data, including data from a comprehensive needs assessment conducted or updated in the past three years using representative data on youth from the jurisdiction(s) proposing the pilot, that demonstrates how the target population lags behind other groups in achieving positive outcomes and the specific risk factors for this population (5 points).

Note: Applicants are encouraged to disaggregate these data according to relevant demographic factors such as race, ethnicity, gender, age, disability status, involvement in systems such as foster care or juvenile justice, status as pregnant or parenting, and other key factors selected by the applicant. If disaggregated data specific to the local population are not available, applicants may refer to disaggregated data available through research, studies, or other sources that describe similarly situated populations as the one the applicant is targeting with its pilot.

Note: Applicants do not need to include a copy of the needs assessment but should identify when it was conducted or updated.

(b) *Need for Requested Flexibility, Including Blending of Funds and Other Waivers.* In determining the need for the requested flexibility, including blending of funds and other waivers, we will consider:

1. The strength and clarity of the applicant's justification that each of the specified Federal requirements identified in Table 2 for which the applicant is seeking flexibility hinders implementation of the proposed pilot (10 points); and

2. The strength and quality of the applicant's justification of how each request for flexibility identified in Table 2 (*i.e.*, blending funds and waivers) will increase efficiency or access to services and produce significantly better outcomes for the target population(s) (10 points).

(c) *Project Design.* In determining the strength of the project design, we will consider:

1. The strength and logic of the proposed project design in addressing the gaps and the disparities identified in the response to Selection Criterion (a) (Need for Project) and the barriers identified in the response to Selection Criterion (b) (Need for Requested Flexibility, Including Blending of Funds and Other Waivers). This includes the clarity of the applicant's plan and how the plan differs from current practices. Scoring will account for the strength of both the applicant's narrative and the logic model (10 points);

Note: The applicant's narrative should describe how the proposed project will use and coordinate resources, including building on participation in any complementary Federal initiatives or efforts.

2. The strength of the evidence supporting the pilot design and whether the applicant proposes the effective use of interventions based on evidence and evidence-informed interventions (as defined in this notice), as documented by citations to the relevant evidence that informed the applicant's design (5 points);

Note: Applicants should cite the studies on interventions and system reforms that informed their pilot design and explain the relevance of the cited evidence to the proposed project in terms of subject matter and evaluation evidence. Applicants proposing reforms on which there are not yet evaluations (such as innovations that have not been formally tested or tested only on a small scale) should document how evidence or practice knowledge informed the proposed pilot design.

3. The strength of the applicant's evidence that the project design, including any protections and safeguards that will be established, ensures that the consequences or impacts of the changes from current practices in serving youth through the proposed funding streams:

A. Will not result in denying or restricting the eligibility of individuals for services that (in whole or in part) are otherwise funded by these programs; and

B. Based on the best available information, will not otherwise adversely affect vulnerable populations that are the recipients of those services (5 points).

(d) *Work Plan and Project Management.* In determining the strength of the work plan and project management, we will consider the strength and completeness of the work plan and project management approach and their likelihood of achieving the objectives of the proposed project on time and within budget, based on—

1. Clearly defined and appropriate responsibilities, timelines, and milestones for accomplishing project tasks;

2. The qualifications of project personnel to ensure proper management of all project activities;

3. How any existing or anticipated barriers to implementation will be overcome (10 points).

Note: If the program manager or other key personnel are already on staff, the applicant should provide this person's resume or curriculum vitae.

Note: Evaluation activities may be included in the timelines provided as part of the work plan.

(e) *Partnership Capacity.* In determining the strength and capacity of the proposed pilot partnership, we will consider the following factors—

1. How well the applicant demonstrates that it has an effective governance structure in which partners that are necessary to implement the pilot successfully are represented and have the necessary authority, resources, expertise, and incentives to achieve the pilot's goals and resolve unforeseen issues, including by demonstrating the extent to which, and how, participating partners have successfully collaborated to improve outcomes for disconnected youth in the past (10 points);

2. How well the applicant demonstrates that its proposal was designed with substantive input from all relevant stakeholders, including disconnected youth and other community partners (5 points).

Note: Where the project design includes job training strategies, the extent of employer input and engagement in the identification of skills and competencies needed by employers, the development of the curriculum, and the offering of work-based learning opportunities, including pre-apprenticeship and registered apprenticeship, will be considered.

(f) *Data and Performance Management Capacity.* In determining the strength of the applicant's data and performance management capacity, we will consider the following factors—

1. The applicant's capacity to collect, analyze, and use data for decision-making, learning, continuous improvement, and accountability, and the strength of the applicant's plan to bridge any gaps in its ability to do so. This capacity includes the extent to which the applicant and partner organizations have tracked and shared data about program participants, services, and outcomes, including the execution of data-sharing agreements that comport with Federal, State, and other privacy laws and requirements, and will continue to do so (10 points);

2. How well the proposed outcome measures, interim indicators, and measurement methodologies specified in Table 4 of the application appropriately and sufficiently gauge results achieved for the target population under the pilot (10 points); and

3. How well the data sources specified in Table 4 of the application can be appropriately accessed and used to reliably measure the proposed outcome measures and interim indicators (5 points).

(g) *Budget and Budget Narrative.* In determining the adequacy of the resources that will be committed to support the project, we will consider the appropriateness of expenses within the budget with regards to cost and to implementing the pilot successfully. We will consider the entirety of funds the applicant will use to support its pilot including start-up grant funds, blended and braided funds included in Table 5, and non-Federal funds including in-kind contributions. (5 points)

2. *Review and Selection Process:* The Department will screen applications that are submitted in accordance with the requirements in this notice, and will determine which applications are eligible to be read based on whether they have met the eligibility and application requirements established by this notice.

The Department will use reviewers with knowledge and expertise on issues related to improving outcomes for disconnected youth to score the selection criteria. The Department will thoroughly screen all reviewers for conflicts of interest to ensure a fair and competitive review.

Peer reviewers will read, prepare a written evaluation of, and score the assigned applications, based on the seven selection criteria listed in the *Selection Criteria* section of this notice.

In reviewing applications, all reviewers will score Competitive Preference Priority 1 (Improving Outcomes for Youth Who Are Unemployed and Out of School), while reviewers with expertise in evaluation will score Competitive Preference Priority 4 (Site-Specific Evaluation). The Department will assign three points for Competitive Preference Priority 2 (Work-Based Learning) if the application proposes to provide all disconnected youth that will be served by the project with paid work-based learning opportunities, such as opportunities during the summer, which are integrated with academic and technical instruction. If you address Competitive Preference Priority 3, provide a HUD Form 50153 (Certification of Consistency with Promise Zone Goals and Implementation) that has been signed by an authorized Promise Zone official.

Technical scoring. Reviewers will read, prepare a written evaluation, and assign a technical score to the applications assigned to their panel, using the selection criteria provided in this notice, Competitive Preference Priorities 1 and 4, and the scoring rubric in Appendix B.

ED will then prepare a rank order of applications based on their technical scores.

Flexibility, including blending of funds and other waivers. Using this rank order, representatives of the Agencies that administer programs under which flexibility in Federal requirements is sought will evaluate whether the flexibility, including blending of funds and other waivers requested by top-scoring applicants, meets the statutory requirements for Performance Partnership Pilots and is otherwise appropriate. For example, if an applicant is seeking flexibility under programs administered by HHS and DOL, its requests for flexibility will be reviewed by HHS and DOL officials. Applicants may be asked to participate in an interview at this point in the process in order to clarify requests for flexibility and other aspects of their proposals.

For applicants that propose to include funds from FY 2015 or FY 2016 competitive grants that have already been awarded, the flexibility review may include consideration of whether the scope, objectives, and target populations of the existing competitive grant award(s) are sufficiently and appropriately aligned with the proposed pilot. Any changes in terms and conditions of the existing competitive grant award(s) required for pilot purposes must be justified by the applicant (see frequently asked questions included in the application package). The Agencies will review those requests on a case-by-case basis.

If 25 or fewer eligible applications are received, the technical scoring and reviews of flexibility requests may be conducted concurrently.

Selecting finalists. Agency officials may recommend the selection of up to ten projects as Performance Partnership Pilots. In accordance with 34 CFR 75.217(d) and in consultation with the other Agencies, the Secretary will select finalists after considering the rank ordering, the recommendations of the Agencies that administer the programs for which the applicants are seeking flexibility, and other information including an applicant's performance and use of funds and compliance history under a previous award under any Agency program. In selecting pilots, the Agencies may consider high-ranking applications meeting Absolute Priority 2, Absolute Priority 3, and Absolute Priority 4 separately to ensure that there is a diversity of pilots. In addition, as required by the Acts, each pilot must meet all statutory criteria.

For each finalist, ED and any other agencies implicated in the pilot will negotiate a performance agreement. If a performance agreement cannot be finalized for any applicant, an alternative applicant may be selected as a finalist instead. The recommended projects will be considered finalists until performance agreements are signed by all parties, and pilot designation will be awarded only after finalization and approval of each finalist's performance agreement.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition ED conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* As described earlier in this notice, the applicant must propose outcome measures and interim indicators to gauge pilot performance using Table 4. At least one outcome measure must be in the domain of education, and at least one outcome measure must be in the domain of employment. Applicants may specify additional employment and education outcome measures, as well as outcome measures in other domains of well-being, such as criminal justice, physical and mental health, and housing. Regardless of the outcome domain, applicants must identify at least one interim indicator for each proposed outcome measure. Applicants must indicate the source of the data for each outcome measure and interim indicator, the proposed frequency of collection, and the methodology used to collect the data. Outcome measures and interim indicators, along with the required reporting frequency for each, will be outlined in P3 performance agreements.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Marilyn Fountain, U.S. Department of Education, 400 Maryland Avenue SW., Room 11026, PCP, Washington, DC 20202. Telephone: (202)245–7346 or by email: *disconnectedyouth@ed.gov* or Rosanne Andre, U.S. Department of Education, 400 Maryland Avenue SW., Room 11070, PCP, Washington, DC 20202. Telephone: (202) 245–7789. Email address: *Disconnectedyouth@ed.gov.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to either of the program contact persons listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Johan E. Uvin,

Deputy Assistant Secretary, Delegated the Duties of the Assistant Secretary for Career, Technical, and Adult Education.

Appendix A: Evaluation Commitment Form

Appendix B: Scoring Rubric

Appendix A: Evaluation Commitment Form

An authorized executive of the lead applicant and all other partners, including State, local, tribal, and non-governmental organizations that would be involved in the pilot's implementation, must sign this form and submit it as an attachment to the grant application. The form is not considered in the recommended application page limit.

Commitment To Participate in Required Evaluation Activities

As the lead applicant or a partner proposing to implement a Performance Partnership Pilot through a Federal grant, I/we agree to carry out the following activities, which are considered evaluation requirements applicable to all pilots:

Facilitate Data Collection: I/we understand that the award of this grant requires me/us to facilitate the collection and/or transmission of data for evaluation and performance monitoring purposes to the lead Federal agency and/or its national evaluator in accordance with applicable Federal, State, and local, and tribal laws, including privacy laws.

The type of data that will be collected includes, but is not limited to, the following:

- Demographic information, including participants' gender, race, age, school status, and employment status;
- Information on the services that participants receive; and
- Outcome measures and interim outcome indicators, linked at the individual level, which will be used to measure the effects of the pilots.

The lead Federal agency will provide more details to grantees on the data items required for performance and evaluation after grants have been awarded.

Participate in Evaluation: I/we understand that participation and full cooperation in the national evaluation of the Performance Partnership Pilot is a condition of this grant award. I/we understand that the national evaluation will include an implementation systems analysis and, for certain sites as appropriate, may also include an impact evaluation. My/our participation will include facilitating site visits and interviews; collaborating in study procedures, including random assignment, if necessary; and transmitting data that are needed for the evaluation of participants in the study sample, including those who may be in a control group.

Participate in Random Assignment: I/we agree that if our Performance Partnership Pilot or certain activities in the Pilot is selected for an impact evaluation as part of the national evaluation, it may be necessary to select participants for admission to Performance Partnership Pilot by a random lottery, using procedures established by the evaluator.

Secure Consent: I/we agree to include a consent form for, as appropriate, parents/guardians and students/participants in the application or enrollment packet for all youth in organizations implementing the Performance Partnership Pilot consistent with any Federal, State, local, and tribal laws that apply. The parental/participant consent forms will be collected prior to the acceptance of participants into Performance Partnership Pilot and before sharing data with the evaluator for the purpose of evaluating the Performance Partnership Pilot.

SIGNATURES

Lead Applicant
Print Name ____________
Signature ____________
Organization ____________
Date ____________

Partner
Print Name ____________
Signature ____________
Organization ____________
Date ____________

Partner
Print Name ____________
Signature ____________
Organization ____________
Date ____________

Partner
Print Name ____________
Signature ____________
Organization ____________
Date ____________

Partner
Print Name ____________
Signature ____________
Organization ____________
Date ____________

Partner
Print Name ____________
Signature ____________
Organization ____________
Date ____________

[Approved by the Office of Management and Budget under control number 1830–0575]

Appendix B: Scoring Rubric

Reviewers will assign points to an application for each selection sub-criterion, as well as for Competitive Preference Priorities 1 (Improving Outcomes for Youth Who Are Unemployed and Out of School) and 4 (Site-Specific Evaluation). In awarding points for Competitive Preference Priority 1, reviewers will make case by case determinations as to how well a particular application meets both parts of the priority. For example, more points may be awarded to an application proposing to serve a higher percentage of disconnected youth who are neither employed nor enrolled in education and who face significant barriers to accessing education and employment, and is likely to result in significantly better educational or employment outcomes for such youth based on the strength of the evidence base and/or logic model underlying the applicant's project design. ED will assign three points to an application for Competitive Preference Priority 2 (Work-Based Learning) if the application proposes to provide all disconnected youth that will be served by the project with paid work-based learning opportunities, such as opportunities during the summer, which are integrated with academic and technical instruction. ED will assign two points for Competitive Preference Priority 3 (Promise Zones) to an application if the application includes a HUD Form 50153 (Certification of Consistency with Promise Zone Goals and Implementation) that has been signed by an authorized Promise Zone official. To help promote consistency across and within the panels that will review P3 applications, the Department has created a scoring rubric for reviewers to aid them in scoring applications.

The scoring rubric below shows the maximum number of points that may be assigned to each criterion, sub-criterion, and the competitive preference priority.

Selection criteria	Sub-criterion points	Criterion points
(a) Need for Project. In determining the need for the proposed project, we will consider the magnitude of the need of the target population, as evidenced by the applicant's analysis of data, including data from a comprehensive needs assessment conducted or updated within the past three years using representative data on youth from the jurisdiction(s) proposing the pilot, that demonstrates how the target population lags behind other groups in achieving positive outcomes and the specific risk factors for this population.		5
(b) Need for Requested Flexibility, Including Blending of Funds and Other Waivers. In determining the need for the requested flexibility, including blending of funds and other waivers, we will consider:		20
(b)1. The strength and clarity of the applicant's justification that each of the specified Federal requirements identified in Table 2 for which the applicant is seeking flexibility hinders implementation of the proposed pilot; and	10	
(b)2. The strength and quality of the applicant's justification of how each request for flexibility identified in Table 2 (i.e., blending funds and waivers) will increase efficiency or access to services and produce significantly better outcomes for the target population(s)	10	
(c) Project Design. In determining the strength of the project design, we will consider:		20
(c)1. The strength and logic of the proposed project design in addressing the gaps and the disparities identified in the response to Selection Criterion (a) (Need for Project) and the barriers identified in the response to Selection Criterion (b) (Need for Requested Flexibility, Including Blending of Funds and Other Waivers). This includes the clarity of the applicant's plan and how the plan differs from current practices. Scoring will account for the strength of both the applicant's narrative and the logic model;;	10	
(c)2. The strength of the evidence supporting the pilot design and whether the applicant proposes the effective use of interventions based on evidence and evidence-informed interventions (as defined in this notice) as documented by citations to the relevant evidence that informed the applicant's design;	5	
(c)3. The strength of the applicant's evidence that the project design, including any protections and safeguards that will be established, ensures that the consequences or impacts of the changes from current practices in serving youth through the proposed funding streams:	5	
A. Will not result in denying or restricting the eligibility of individuals for services that (in whole or in part) are otherwise funded by these programs; and		
B. Based on the best available information, will not otherwise adversely affect vulnerable populations that are the recipients of those services (5 points).		
(d) Work Plan and Project Management. In determining the strength of the work plan and project management, we will consider the strength and completeness of the work plan and project management approach and their likelihood of achieving the objectives of the proposed project on time and within budget, based on—		10
1. Clearly defined and appropriate responsibilities, timelines, and milestones for accomplishing project tasks;		
2. The qualifications of project personnel to ensure proper management of all project activities;		
3. How any existing or anticipated barriers to implementation will be overcome.		
(e) Partnership Capacity. In determining the strength and capacity of the proposed pilot partnership, we will consider the following factors—		15
(e)1. How well the applicant demonstrates that it has an effective governance structure in which partners that are necessary to implement the pilot successfully are represented and have the necessary authority, resources, expertise, and incentives to achieve the pilot's goals and resolve unforeseen issues, including by demonstrating the extent to which, and how, participating partners have successfully collaborated to improve outcomes for disconnected youth in the past;	10	
(e)2. How well the applicant demonstrates that its proposal was designed with substantive input from all relevant stakeholders, including disconnected youth and other community partners.	5	
(f) Data and Performance Management Capacity. In determining the strength of the applicant's data and performance management capacity, we will consider the following factors—		25
(f)1. The applicant's capacity to collect, analyze, and use data for decision-making, learning, continuous improvement, and accountability, and the strength of the applicant's plan to bridge any gaps in its ability to do so. This capacity includes the extent to which the applicant and partner organizations have tracked and shared data about program participants, services, and outcomes, including the execution of data-sharing agreements that comport with Federal, State, and other privacy laws and requirements, and will continue to do so;	10	
(f)2. How well the proposed outcome measures, interim indicators, and measurement methodologies specified in Table 4 of the application appropriately and sufficiently gauge results achieved for the target population under the pilot; and	10	

Selection criteria	Sub-criterion points	Criterion points
(f)3. How well the data sources specified in Table 4 of the application can be appropriately accessed and used to reliably measure the proposed outcome measures and interim indicators.	5	
(g) Budget and Budget Narrative. In determining the adequacy of the resources that will be committed to support the project, we will consider the appropriateness of expenses within the budget with regards to cost and to implementing the pilot successfully. We will consider the entirety of funds the applicant will use to support its pilot including start-up grant funds, blended and braided funds included in Table 5, and non-Federal funds including in-kind contributions.		5
Total	100	100
Competitive Preference Priorities for Applications		
Competitive Preference Priority 1: Improving Outcomes for Youth Who Are Unemployed and Out of School To meet this priority, an applicant must propose a pilot that— (1) will serve disconnected youth who are neither employed nor enrolled in education and who face significant barriers to accessing education and employment; and (2) is likely to result in significantly better educational or employment outcomes for such youth.	5	5
Competitive Preference Priority 2: Work-Based Learning Opportunities To meet this priority, an applicant must propose a pilot that will provide all of the disconnected youth it proposes to serve with paid work-based learning opportunities, such as opportunities during the summer, which are integrated with academic and technical instruction.	3	3
Competitive Preference Priority 3: Promise Zones This priority is for projects that are designed to serve and coordinate with a federally designated Promise Zone.	2	2
Competitive Preference Priority 4: Site-Specific Evaluation To meet this priority, an applicant must propose to conduct an independent evaluation of the impacts on disconnected youth of its overall program or specific components of its program that is a randomized controlled trial or a quasi-experimental design study. The extent to which an applicant meets this priority will be based on the clarity and feasibility of the applicant's proposed evaluation design, the appropriateness of the design to best capture key pilot outcomes, the prospective contribution of the evaluation to the knowledge base about serving disconnected youth (including the rigor of the design and the validity and generalizability of the findings), and the applicant's demonstrated expertise in planning and conducting a randomized controlled trial or quasi-experimental evaluation study.	10	10
Total	20	20

While case-by-case determinations will be made, the reviewers will be asked to consider the general ranges below as a guide when awarding points.

Maximum point value	Quality of response		
	Low	Medium	High
10	0–2	3–7	8–10
5	0–1	2–3	4–5

[FR Doc. 2016–09748 Filed 4–25–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0019]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Higher Education Act (HEA) Title II Report Cards on State Teacher Credentialing and Preparation

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 26, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0019. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–103, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Freddie Cross, 202–502–7489.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Higher Education Act (HEA) Title II Report Cards on State Teacher Credentialing and Preparation.

OMB Control Number: 1840–0744.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 1,780.

Total Estimated Number of Annual Burden Hours: 266,016.

Abstract: This request is to approve extension of the state and institution and program report cards required by the Higher Education Act of 1965, as amended in 2008 by the Higher Education Opportunity Act (HEOA). States must report annually on criteria and assessments required for initial teacher credentials using a State Report Card (SRC), and institutions of higher education (IHEs) with teacher preparation programs (TPP), and TPPs outside of IHEs, must report on key program elements on an Institution and Program Report Card (IPRC). IHEs and TPPs outside of IHEs report annually to their states on program elements, including program numbers, type, enrollment figures, demographics, completion rates, goals and assurances to the state. States, in turn, must report on TPP elements to the Secretary of Education in addition to information on assessment pass rates, state standards, initial credential types and requirements, numbers of credentials issued, TPP classification as at-risk or low-performing. The information from states, institutions, and programs is published annually in The Secretary's Report to Congress on Teacher Quality.

Dated: April 21, 2016.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–09628 Filed 4–25–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

NCES System Clearance for Cognitive, Pilot, and Field Test Studies; ED–2016–ICCD–0040; Correction

AGENCY: Department of Education.

ACTION: Correction Notice.

SUMMARY: On April 5, 2016 the U.S. Department of Education published a 60-day comment period notice in the **Federal Register** (Page 19586, Column 2 and 3; Page 19587, Column 1) seeking public comment for an information collection entitled, "NCES System Clearance for Cognitive, Pilot, and Field Test Studies." The number of responses and burden hours were incorrect. The responses are 600,000 and the burden hours are 240,000. The projected increase in burden is due to an increased projection of the need for developmental studies related to plans for beginning new studies and redesign activities for existing studies, including transitions to more online surveys and assessments in the next three years.

The Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: April 21, 2016.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–09630 Filed 4–25–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Quadrennial Energy Review: Notice of Public Meetings

AGENCY: Office of Energy Policy and Systems Analysis, Secretariat, Quadrennial Energy Review Task Force, Department of Energy.

ACTION: Notice of public meetings and updating meeting location information.

SUMMARY: At the direction of the President, the U.S. Department of Energy (DOE or Department), as the Secretariat for the Quadrennial Energy Review Task Force (QER Task Force), will convene public meetings for the second installment of the Quadrennial Energy Review, an integrated study of the U.S. electricity system from generation through end use. A mixture of panel discussions and a public comment period will frame multi-stakeholder discourse around deliberative analytical questions relating to the intersection of electricity and its role in promoting economic competitiveness, energy security, and environmental responsibility.

DATES: See the **SUPPLEMENTARY INFORMATION** section for meeting dates and locations.

ADDRESSES: Between February 4, 2016 and July 1, 2016, you may submit written comments online at *http://energy.gov/qer* or by U.S. mail to the Office of Energy Policy and Systems Analysis, EPSA–60, QER Meeting Comments, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0121.

FOR FURTHER INFORMATION CONTACT: John Richards, EPSA–60, U.S. Department of Energy, Office of Energy Policy and Systems Analysis, 1000 Independence Avenue SW., Washington, DC 20585–0121. *Telephone:* 202–586–0507 *Email: John.Richards@Hq.Doe.Gov.*

SUPPLEMENTARY INFORMATION: On January 9, 2014, President Obama issued a *Presidential Memorandum—Establishing a Quadrennial Energy Review.* To accomplish this review, the Presidential Memorandum establishes a Quadrennial Energy Review Task Force to be co-chaired by the Director of the Office of Science and Technology Policy, and the Director of the Domestic Policy Council. Under the Presidential Memorandum, the Secretary of Energy shall provide support to the Task Force, including support for coordination activities related to the preparation of the Quadrennial Energy Review (QER) Report, policy analysis and modeling, and stakeholder engagement.

The Quadrennial Energy Review process itself involves robust engagement of federal agencies and outside stakeholders, and further enables the federal government to translate policy goals into a set of analytically based, integrated actions for proposed investments over a four year planning horizon. Unlike traditional federal Quadrennial Review processes, the QER is conducted in a multi-year installment series to allow for more focused analysis on particular sub-sectors of the energy system. The initial focus for the Quadrennial Energy Review was our Nation's transmission, storage and distribution infrastructures that link energy supplies to intermediate and end users, because these capital-intensive infrastructures tend to set supply and end use patterns, investments and practices in place for decades. On April 21, 2015, the Quadrennial Energy Review Task Force released its first Quadrennial Energy Review installment report entitled, "Energy Transmission, Storage, and Distribution Infrastructure". Among the issues highlighted by the analysis in the first installment of the QER were the growing dependencies of all critical infrastructures and economic sectors on electricity, as well as, the increasing interdependence of the various energy subsectors. In response to these findings, and to provide an appropriate consideration of an energy sector undergoing significant technological and regulatory change, the second installment of the QER will conduct a comprehensive review of the nation's electricity system, from generation to end use, including a more comprehensive look at electricity transmission, storage, and distribution infrastructure covered in installment one. The electricity system encompasses not just physical structures, but also a range of actors and institutions. Under this broad framing, the second installment intends to consider the roles and activities of all relevant actors, industries, and institutions integral to continuing to supply reliable and affordable electricity at a time of dramatic change in technology development. Issues to be considered in QER analyses include fuel choices, distributed and centralized generation, physical and cyber vulnerabilities, federal, state, and local policy direction, expectations of residential and commercial consumers, and a review of existing and evolving business models for a range of entities throughout the system.

Significant changes will be required to meet the transformational opportunities and challenges posed by our evolving electricity system. The Administration is seeking public input on key questions relating to possible federal actions that would address the challenges and take full advantage of the opportunities of this changing system to meet the Nation's objectives of reliable, affordable and clean electricity. Over the course of 2016, the Secretariat for the Quadrennial Energy Review Task Force will hold a series of public meetings to discuss and receive comments on the issues outlined above, and well as, others, as they relate to the second installment of the Quadrennial Energy Review.

The Department of Energy has a broad role in energy policy development and the largest role in implementing the Federal Government's energy research and development portfolio. Many other executive departments and agencies also play key roles in developing and implementing policies governing energy resources and consumption, as well as, associated environmental impacts. In addition, non-Federal actors are crucial contributors to energy policies. Because most energy and related infrastructure is owned by private entities, investment by and engagement of, input from the private sector is necessary to develop and implement effective policies. State and local policies, the views of non-governmental, environmental, faith-based, labor, and other social organizations, and contributions from the academic and non-profit sectors are also critical to the development and implementation of effective Federal energy policies.

The interagency Quadrennial Energy Review Task Force, which includes members from all relevant executive departments and agencies, will develop an integrated review of energy policy that integrates all of these perspectives. It will build on the foundation provided in the Administration's *Blueprint for a Secure Energy Future* of March 30, 2011, and *Climate Action Plan* released on June 25, 2013. The Task Force will offer recommendations on what additional actions it believes would be appropriate. These may include recommendations on additional executive or legislative actions to address the energy challenges and opportunities facing the Nation.

Quadrennial Energy Review Public Meetings

The public meetings will be held on:

- April 25, 2016, 8:30 a.m. at the Western Electricity Coordinating Council, 155 North 400 West, Suite 200, Salt Lake City, Utah.
- May 6, 8:30 a.m., at the State Historical Building, 600 E. Locust St. Des Moines, Iowa.
- May 9, 9:30 a.m., at the University of Texas, Peter O' Donnell, Jr. Applied Computational Engineering and Sciences Building, Avaya Auditorium (POB 2.302), 201 E. 24th Street Austin, Texas.
- May 10, 9:00 a.m., at City Hall, Tom Bradley Tower Room, 200 N. Spring St. Los Angeles, California.
- May 24, 10:00 a.m., at Georgia Tech GTRI Conference Center, 250 14th Street NW., Atlanta, Georgia.

Each meeting will feature facilitated panel discussions, followed by an open microphone session. People who would like to speak during the open microphone session at the public meeting should come prepared to speak for no more than five minutes and will be accommodated on a first-come, first-served basis, according to the order in which they register to speak on a sign-in sheet available at the meeting location, on the morning of the meeting. In advance of the meetings, DOE anticipates making publicly available a briefing memorandum providing useful background information regarding the topics under discussion at the meeting. DOE will post this memorandum on its Web site: *http://energy.gov/qer.*

Submitting comments online. DOE will accept public comments on the QER from February 4, 2016, to July 1, 2016, at *energy.gov/qer.* Submitting comments online to the DOE Web site will require you to provide your name and contact information. Your contact information will be viewable to DOE staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any).

Your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through the DOE Web site cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section, below.

If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination. Confidential information should be submitted to the Confidential QER email address: *QERConfidential@hq.doe.gov.*

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest. It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Issued in Washington, DC, on April 21, 2016.

April Salas,

QER Secretariat Director, Quadrennial Energy Review Task Force, U.S. Department of Energy.

[FR Doc. 2016–09689 Filed 4–25–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Guidance and Application for Hydroelectric Incentive Payments

AGENCY: Wind and Water Power Program, Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of availability of guidance and open application period.

SUMMARY: The U.S. Department of Energy (DOE) is publishing Guidance for the Energy Policy Act of 2005 Section 242 program. The guidance describes the hydroelectric incentive payment requirements and explains the type of information that owners or authorized operators of qualified hydroelectric facilities can provide DOE when applying for hydroelectric incentive payments. This incentive is available for electric energy generated and sold for a specified 10-year period as authorized under section 242 of the Energy Policy Act of 2005. In Congressional appropriations for Federal fiscal year 2016, DOE received funds to support this hydroelectric incentive program. At this time, DOE is only accepting applications from owners and authorized operators of qualified hydroelectric facilities for hydroelectricity generated and sold in calendar year 2015.

DATES: DOE is currently accepting applications from April 26, 2016 through May 31, 2016 Applications must be sent to *hydroincentive@ee.doe.gov* by midnight EDT, May 31, 2016, or they will not be considered timely filed for calendar year 2015 incentive payments.

ADDRESSES: DOE's guidance is available at: *http://energy.gov/eere/water/downloads/2014-electrical-production-epact-2005-section-242-hydroelectric-incentive.* Written correspondence may be sent to the Office of Energy Efficiency and Renewable Energy (EE–4W), by email at *hydroincentive@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Mr. Timothy Welch, Office of Energy Efficiency and Renewable Energy (EE–4W), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0121, (202) 586–7055, *hydroincentive@ee.doe.gov. Electronic communications are recommended for correspondence and required for submission of application information.*

SUPPLEMENTARY INFORMATION: In the Energy Policy Act of 2005 (EPAct 2005; Pub. L. 109–58), Congress established a new program to support the expansion of hydropower energy development at existing dams and impoundments through an incentive payment procedure. Under section 242 of EPAct 2005, the Secretary of Energy is directed to provide incentive payments to the owner or authorized operator of qualified hydroelectric facilities for electric energy generated and sold by a qualified hydroelectric facility for a specified 10-year period (See 42 U.S.C. 15881). The Consolidated Appropriations Act, 2016 authorized funding for the Section 242 program for conventional hydropower under EPAct 2005. In FY 2016 DOE allocated $3.5M for this purpose.

DOE finalized its Guidance for the Energy Policy Act of 2005 Section 242 program in December 2015. The final guidance is available at: *http://energy.gov/eere/water/water-power-program.* Each application will be reviewed based on the Guidance. DOE notes that applicants that received payments for calendar year 2014 and that are eligible for calendar year 2015 payments must still submit a full calendar year 2015 application. As authorized under section 242 of EPACT 2005, and as explained in the Guidance, DOE also notes that it will only accept applications from qualified hydroelectric facilities that began operations at an existing dam or conduit during the inclusive period beginning October 1, 2005 and ending on September 30, 2015. Therefore, although DOE is accepting applications for full calendar year 2015 production, the qualified hydroelectric facility must have begun operations starting October 1, 2005 through September 30, 2015 for DOE to consider the application.

When submitting information to DOE for the Section 242 program, it is recommended that applicants carefully read and review the complete content of the Guidance for this process. When reviewing applications, DOE may corroborate the information provided with information that DOE finds through FERC e-filings, contact with power off-taker, and other due diligence measures carried out by reviewing officials. DOE may require the applicant to conduct and submit an independent audit at its own expense, or DOE may conduct an audit to verify the number of kilowatt-hours claimed to have been generated and sold by the qualified hydroelectric facility and for which an incentive payment has been requested or made.

Issued in Washington, DC, on April 21, 2016.

Roland Risser,

Deputy Assistant Secretary for Renewable Power, Energy Efficiency and Renewable Energy.

[FR Doc. 2016–09700 Filed 4–25–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–98–000.
Applicants: Chubu Electric Power Company U.S.A. Inc., Tokyo Electric Power Company, Incorporated.
Description: Supplement to March 31, 2016 Application for Authorization Under Section 203 of the Federal Power Act of Chubu Electric Power Company U.S.A. Inc. et al.
Filed Date: 4/20/16.
Accession Number: 20160420–5037.
Comments Due: 5 p.m. ET 5/2/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–2428–011.
Applicants: Kentucky Utilities Company.
Description: Compliance filing: Rate Case Settlement Municipal Contracts to be effective 4/23/2014.
Filed Date: 12/31/15.
Accession Number: 20151231–5087.
Comments Due: 5 p.m. ET 5/2/16.

Docket Numbers: ER13–2428–012.
Applicants: Kentucky Utilities Company.
Description: Compliance filing: Tariffs Conforming to Settlement to be effective 4/23/2014.
Filed Date: 4/13/16.
Accession Number: 20160413–5195.
Comments Due: 5 p.m. ET 5/2/16.

Docket Numbers: ER16–925–001.
Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.
Description: Compliance filing: NMPC compliance re: SA 2260 between NMPC and Indeck-Corinth to be effective 11/19/2015.
Filed Date: 4/20/16.
Accession Number: 20160420–5051.
Comments Due: 5 p.m. ET 5/11/16.

Docket Numbers: ER16–1129–002.
Applicants: VPI Enterprises, Inc.
Description: Tariff Amendment: Supplement to Application for Order Accepting Initial Market-Based Rate Tariff to be effective 3/11/2016.
Filed Date: 4/19/16.
Accession Number: 20160419–5158.
Comments Due: 5 p.m. ET 5/10/16.

Docket Numbers: ER16–1130–002.
Applicants: DifWind Farms Limited I.
Description: Tariff Amendment: Supplement to Application for Order Accepting Initial Market-Based Rate Tariff to be effective 3/11/2016.
Filed Date: 4/19/16.
Accession Number: 20160419–5149.
Comments Due: 5 p.m. ET 5/10/16.

Docket Numbers: ER16–1131–002.
Applicants: DifWind Farms Limited II.
Description: Tariff Amendment: Supplement to Application for Order Accepting Initial Market-Based Rate Tariff to be effective 3/11/2016.
Filed Date: 4/19/16.
Accession Number: 20160419–5153.
Comments Due: 5 p.m. ET 5/10/16.

Docket Numbers: ER16–1132–002.
Applicants: DifWind Farms Limited V.
Description: Tariff Amendment: Supplement to Application for Order Accepting Initial Market-Based Rate Tariff to be effective 3/11/2016.
Filed Date: 4/19/16.
Accession Number: 20160419–5157.
Comments Due: 5 p.m. ET 5/10/16.

Docket Numbers: ER16–1459–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: LGIA RE Gaskell West LLC Gaskell West Project to be effective 4/20/2016.
Filed Date: 4/19/16.
Accession Number: 20160419–5187.
Comments Due: 5 p.m. ET 5/10/16.

Docket Numbers: ER16–1460–000.
Applicants: Aspirity Energy Northeast LLC.
Description: Tariff Cancellation: Notice of Cancellation of Market-Based Rate Tariff to be effective 6/20/2016.
Filed Date: 4/19/16.
Accession Number: 20160419–5201.
Comments Due: 5 p.m. ET 5/10/16.

Docket Numbers: ER16–1461–000.
Applicants: Tres Amigas, LLC.
Description: § 205(d) Rate Filing: Notice of Succession to be effective 12/10/2015.
Filed Date: 4/19/16.
Accession Number: 20160419–5206.
Comments Due: 5 p.m. ET 5/10/16.

Docket Numbers: ER16–1462–000.
Applicants: Palmco Power DE LLC.
Description: Baseline eTariff Filing: Palmco Power DE FERC Electric Tariff to be effective 5/19/2016.
Filed Date: 4/19/16.
Accession Number: 20160419–5207.
Comments Due: 5 p.m. ET 5/10/16.

Docket Numbers: ER16–1464–000.
Applicants: Palmco Power ME, LLC.
Description: Baseline eTariff Filing: Palmco Power ME FERC Electric Tariff to be effective 5/20/2016.
Filed Date: 4/20/16.
Accession Number: 20160420–5049.
Comments Due: 5 p.m. ET 5/11/16.

Docket Numbers: ER16–1465–000.
Applicants: Palmco Power MI LLC.
Description: Baseline eTariff Filing: Palmco Power MI FERC Electric Tariff to be effective 5/20/2016.
Filed Date: 4/20/16.
Accession Number: 20160420–5050.
Comments Due: 5 p.m. ET 5/11/16.

Docket Numbers: ER16–1466–000.
Applicants: Palmco Power NH LLC.
Description: Baseline eTariff Filing: Palmco Power NH FERC Electric Tariff to be effective 5/20/2016.
Filed Date: 4/20/16.
Accession Number: 20160420–5052.
Comments Due: 5 p.m. ET 5/11/16.

Docket Numbers: ER16–1467–000.
Applicants: Palmco Power VA LLC.
Description: Baseline eTariff Filing: Palmco Power VA FERC Electric Tariff to be effective 5/20/2016.
Filed Date: 4/20/16.
Accession Number: 20160420–5053.
Comments Due: 5 p.m. ET 5/11/16.

Docket Numbers: ER16–1468–000.
Applicants: Palmco Power RI LLC.
Description: Baseline eTariff Filing: Palmco Power RI FERC Electric Tariff to be effective 5/20/2016.
Filed Date: 4/20/16.
Accession Number: 20160420–5054.
Comments Due: 5 p.m. ET 5/11/16.

Docket Numbers: ER16–1469–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1875R2 Kansas Electric Power Cooperative, Inc. NITSA and NOA to be effective 4/1/2016.
Filed Date: 4/20/16.
Accession Number: 20160420–5076.
Comments Due: 5 p.m. ET 5/11/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 20, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–09623 Filed 4–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–1462–000]

Palmco Power DE LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Palmco Power DE LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 10, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 20, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–09665 Filed 4–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–145–000]

Tres Palacios Gas Storage LLC; Notice of Application

Take notice that on April 7, 2016, Tres Palacios Gas Storage LLC (Tres Palacios) 700 Louisiana Street, Suite 2060, Houston, Texas 77002, filed in the above referenced docket an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, requesting authorization to amend the certificated capacities for Tres Palacios' three storage caverns at its natural gas storage facility located in Matagorda, Colorado, and Wharton Counties, Texas. Tres Palacios states that current data and volumetric analysis indicate the actual capacities of the three caverns are less than the certificated capacities, and therefore proposes to set the certificated capacities to reflect the actual capacities.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Any questions concerning this application may be directed to James D. Johnston, Crestwood Midstream Partners LP, 700 Louisiana, Suite 2550, Houston, Texas 77251–1642, by phone at (832) 519–2206, by fax at (8320 519–2251, or by email at *james.johnston@crestwoodlp.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit an original plus five copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and five copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: May 11, 2016.

Dated: April 20, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–09663 Filed 4–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–90–000.

Applicants: Virginia Electric and Power Company.

Description: Supplement to March 22, 2016 Application for Authorization under Section 203 of the FPA (Revised Accounting Entries) of Virginia Electric and Power Company.

Filed Date: 4/20/16.

Accession Number: 20160420–5104.

Comments Due: 5 p.m. ET 5/11/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–1470–000.

Applicants: Fauquier Landfill Gas, LLC.

Description: Tariff Cancellation: Cancellation of MBR Tariff to be effective 4/21/2016.

Filed Date: 4/20/16.

Accession Number: 20160420–5098.

Comments Due: 5 p.m. ET 5/11/16.

Docket Numbers: ER16–1471–000.

Applicants: Fauquier Landfill Gas, LLC.

Description: Tariff Cancellation: Cancellation of MBR Tariff to be effective 4/21/2016.

Filed Date: 4/20/16.

Accession Number: 20160420–5108.

Comments Due: 5 p.m. ET 5/11/16.

Docket Numbers: ER16–1472–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: 2016 Revised Added Facilities Rate under WDAT—Filing No. 9 to be effective 1/1/2016.

Filed Date: 4/20/16.

Accession Number: 20160420–5125.

Comments Due: 5 p.m. ET 5/11/16.

Docket Numbers: ER16–1473–000.

Applicants: NSTAR Electric Company.

Description: Tariff Cancellation: Notice of Cancelation of NRG Canal 3 Design and Engineering Agreement to be effective 3/24/2016.

Filed Date: 4/20/16.

Accession Number: 20160420–5138.

Comments Due: 5 p.m. ET 5/11/16.

Docket Numbers: ER16–1474–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: First Revised Service Agreement Nos. 3736 and 3737; Queue No. Y3–026 to be effective 5/1/2015.

Filed Date: 4/20/16.

Accession Number: 20160420–5143.

Comments Due: 5 p.m. ET 5/11/16.

Docket Numbers: ER16–1475–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Rate Schedule No. 217 Exhibit B.RVL to be effective 6/20/2016.

Filed Date: 4/20/16.

Accession Number: 20160420–5150.

Comments Due: 5 p.m. ET 5/11/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 20, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–09624 Filed 4–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–155–000]

Puget Sound Energy, Inc.; Notice of Request Under Blanket Authorization

Take notice that on April 13, 2016, Puget Sound Energy, Inc. (Puget), 10885 NE 4th Street, Bellevue, Washington 98004, filed in Docket No. CP16–155–000 a prior notice request pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act (NGA) as amended, requesting authorization to plug and abandon fifteen wells and associated surface appurtenances at its Jackson Prairie Storage Facility (Jackson Prairie) in Lewis County, Washington. Puget states that the wells proposed for abandonment are not currently used for injection/withdrawal and the potential for internal and external corrosion exists. Puget asserts that abandoning these facilities will reduce the costs associated with ongoing maintenance and remediation, while improving the overall integrity of the storage facility. Puget states that the proposed abandonment will have no effect on Jackson Prairie's certificated parameters and no adverse impact on Puget's storage service. Puget estimates the cost of the Project to be approximately $15,461,000, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to William F. Donahue, Manager, Natural Gas Resources, Puget Sound Energy, Inc., P.O. Box 94034, Bellevue, WA 98004, by telephone at (425) 456–2356, or by email at *Bill.Donahue@pse.com.*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and seven copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: April 20, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–09664 Filed 4–25–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL_9944–03–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Utah's request to revise its National Primary Drinking Water Regulations Implementation EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective May 26, 2016 for the State of Utah's National Primary Drinking Water Regulations Implementation program, if no timely request for a public hearing is received and accepted by the Agency.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On March 9, 2016, the Utah Department of Environmental Quality (UT DEQ) submitted an application titled Compliance Monitoring Data Portal for revision to its EPA-approved drinking water program under title 40 CFR to allow new electronic reporting. EPA reviewed UT DEQ's request to revise its EPA-authorized program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Utah's request to revise its Part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting under 40 CFR part 141 is being published in the **Federal Register**.

UT DEQ was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Also, in today's notice, EPA is informing interested persons that they may request a public hearing on EPA's action to approve the State of Utah's request to revise its authorized public water system program under 40 CFR part 142, in accordance with 40 CFR 3.1000(f). Requests for a hearing must be submitted to EPA within 30 days of publication of today's **Federal Register** notice. Such requests should include the following information:

(1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in EPA's determination, a brief explanation as to why EPA should hold a hearing, and any other information that the requesting person wants EPA to consider when determining whether to grant the request;

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

In the event a hearing is requested and granted, EPA will provide notice of the hearing in the **Federal Register** not less than 15 days prior to the scheduled hearing date. Frivolous or insubstantial requests for hearing may be denied by EPA. Following such a public hearing, EPA will review the record of the hearing and issue an order either affirming today's determination or rescinding such determination. If no timely request for a hearing is received and granted, EPA's approval of the State of Utah's request to revise its part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting will become effective 30 days after today's notice is published, pursuant to CROMERR section 3.1000(f)(4).

Matthew Leopard,

Director, Office of Information Collection.

[FR Doc. 2016–09580 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 9944–02–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Oregon's request to revise its National Primary Drinking Water Regulations Implementation EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective May 26, 2016 for the State of Oregon's National Primary Drinking Water Regulations Implementation program, if no timely request for a public hearing is received and accepted by the Agency.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On February 29, 2016, the Oregon Health Authority (OHA) submitted an application titled Compliance Monitoring Data Portal for revision to its EPA-approved drinking water program under title 40 CFR to allow new electronic reporting. EPA reviewed OHA's request to revise its EPA-authorized program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Oregon's request to revise its Part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting under 40 CFR part 141 is being published in the **Federal Register**.

OHA was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Also, in today's notice, EPA is informing interested persons that they may request a public hearing on EPA's action to approve the State of Oregon's request to revise its authorized public water system program under 40 CFR part 142, in accordance with 40 CFR 3.1000(f). Requests for a hearing must be submitted to EPA within 30 days of publication of today's **Federal Register** notice. Such requests should include the following information:

(1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in EPA's determination, a brief explanation as to why EPA should hold a hearing, and any other information that the requesting person wants EPA to consider when determining whether to grant the request;

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

In the event a hearing is requested and granted, EPA will provide notice of the hearing in the **Federal Register** not less than 15 days prior to the scheduled hearing date. Frivolous or insubstantial requests for hearing may be denied by EPA. Following such a public hearing, EPA will review the record of the hearing and issue an order either affirming today's determination or rescinding such determination. If no timely request for a hearing is received and granted, EPA's approval of the State of Oregon's request to revise its part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting will become effective 30 days after today's notice is published, pursuant to CROMERR section 3.1000(f)(4).

Matthew Leopard,

Director, Office of Information Collection.

[FR Doc. 2016–09577 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL_9942–93–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Louisiana's request to revise its National Primary Drinking Water Regulations Implementation EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective May 26, 2016 for the State of Louisiana's National Primary Drinking Water Regulations Implementation program, if no timely request for a public hearing is received and accepted by the Agency.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov*.

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On February 8, 2016, the Louisiana Department of Health and Hospitals (LDHH) submitted an application titled Compliance Monitoring Data Portal for revision to its EPA-approved drinking water program under title 40 CFR to allow new electronic reporting. EPA reviewed LDHH's request to revise its EPA-authorized program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Louisiana's request to revise its Part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting under 40 CFR part 141 is being published in the **Federal Register**.

LDHH was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Also, in today's notice, EPA is informing interested persons that they may request a public hearing on EPA's action to approve the State of Louisiana's request to revise its authorized public water system program under 40 CFR part 142, in accordance with 40 CFR 3.1000(f). Requests for a hearing must be submitted to EPA within 30 days of publication of today's **Federal Register** notice. Such requests should include the following information:

(1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in EPA's determination, a brief explanation as to why EPA should hold a hearing, and any other information that the requesting person wants EPA to consider when determining whether to grant the request;

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

In the event a hearing is requested and granted, EPA will provide notice of the hearing in the **Federal Register** not less than 15 days prior to the scheduled hearing date. Frivolous or insubstantial requests for hearing may be denied by EPA. Following such a public hearing, EPA will review the record of the hearing and issue an order either affirming today's determination or rescinding such determination. If no timely request for a hearing is received and granted, EPA's approval of the State of Louisiana's request to revise its part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting will become effective 30 days after today's notice is published, pursuant to CROMERR section 3.1000(f)(4).

Matthew Leopard,

Director, Office of Information Collection.

[FR Doc. 2016–09576 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9945–70–OA]

Farm, Ranch, and Rural Communities Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency (EPA) gives notice of a meeting of the Farm, Ranch, and Rural Communities Committee (FRRCC). The FRRCC is a policy-oriented committee that provides policy advice, information, and recommendations to the EPA Administrator on a range of environmental issues and policies that are of importance to agriculture and rural communities.

The purpose of this meeting is to draft and review recommendations regarding how EPA can best create a framework for facilitating collaborative and innovative partnerships, building upon existing resource protection efforts to promote soil health, particularly as it relates to water and air and to adaptation of a changing climate.

DATES: The Farm, Ranch, and Rural Communities Committee will hold an open meeting on Wednesday, May 25, 2016, from 9:00 a.m. until 5:30 p.m. and Thursday, May 26, 2016 from 9:00 a.m. until 5:00 p.m. Eastern Standard Time.

ADDRESSES: The meeting will be held at EPA One Potomac Yard, 2777 Crystal Dr., Arlington VA, 22202, Room 4370/80 fourth floor. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Donna Perla, Acting Designated Federal Officer, *perla.donna@epa.gov*, 202–564–0184, U.S. EPA, Office of the Administrator (1101A), Room 2415, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Requests to make brief oral comments or provide written statements to the FRRCC should be sent to Donna Perla, Acting Designated Federal Officer, at the contact information above. All requests must be submitted no later than May 18, 2016, at the contact information above.

Meeting Access: For information on access or services for individuals with disabilities, please contact Donna Perla at 202–564–0184 or *perla.donna@epa.gov.* To request accommodation of a disability, please contact Donna Perla, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: April 19, 2016.

Donna Perla,

Acting Designated Federal Officer.

[FR Doc. 2016–09733 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2016–0150; FRL–9945–67–OW]

General Permit for Ocean Disposal of Marine Mammal Carcasses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of proposed general permit.

SUMMARY: The Environmental Protection Agency (EPA) proposes to issue a general permit to authorize any officer, employee, agent, department, agency, or instrumentality of federal, state, tribal, or local unit of government, as well as any Marine Mammal Health and Stranding Response Program (MMHSRP) Stranding Agreement Holder, and any Alaska Native subsistence user to transport from the United States and dispose of marine mammal carcasses in ocean waters. EPA's purpose in proposing a general permit is to expedite required authorizations that otherwise currently require the issuance of an emergency permit for the ocean disposal of marine mammal carcasses. EPA also proposes permit terms that would apply for at sea disposal of marine mammal carcasses generally by governmental entities (and MMHSRP Agreement Holders), as well as by Alaska Native subsistence users based on circumstances specific to the remote locations of such disposals. The EPA invites public comment on all aspects of this proposed general permit.

DATES: Comments must be received on or before June 27, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2016–0150, to the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Brian Rappoli, Ocean and Coastal Protection Division, Office of Water, 4504T, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: 202–566–1548; fax number: 202–566–1546; email address: *rappoli.brian@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

The proposed general permit would apply to any officer, employee, agent, department, agency, or instrumentality of federal, state, tribal, or local unit of government, as well as any MMHSRP Stranding Agreement Holder, and any Alaska Native subsistence user that transports from the United States and disposes of marine mammal carcasses in ocean waters.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI). In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Federal Law and International Conventions

The EPA proposes general terms of authorization under Title I of the Marine Protection, Research, and Sanctuaries Act (MPRSA), sometimes referred to as the Ocean Dumping Act, for the ocean disposal of the marine mammal carcasses. The term "marine mammal" would mean any mammal that is morphologically adapted to the marine environment (including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea), or primarily inhabits the marine environment (*e.g.,* polar bears). Other than Alaska Native subsistence users, EPA does not anticipate that ocean disposal would be necessary for marine mammal carcasses except in unusual circumstances, such as (1) beached whale carcasses and (2) after mass strandings of other marine mammals.

Transportation for the purpose of disposal of any material in the ocean requires authorization under the

MPRSA. In the past, the EPA has permitted the ocean disposal of cetacean (whales and related species) and pinniped (seals and related species) carcasses on a case-by-case basis, with emergency permits. The terms of this proposed general permit are based on the EPA's past emergency permitting and will enable more timely authorization of such ocean disposals. The general permit will apply to the transport of marine mammal carcasses from the United States for the purpose of ocean disposal.

Living marine mammals are protected by federal law, including the Marine Mammal Protection Act (MMPA), the Endangered Species Act, and the Whaling Convention Act (WCA), and international conventions, including the International Convention for the Regulation of Whaling, which established the International Whaling Commission (IWC), and the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Although the proposed general permit would apply only to animal carcasses, certain IWC regulations are nevertheless relevant. Specifically, IWC regulations recognize that indigenous or aboriginal subsistence whaling is not the same as the commercial whaling that is subject to the IWC's whaling moratorium. As relevant to subsistence whaling in the United States, the IWC sets catch limits for the Western Arctic stock of bowhead whales based upon the needs of Native hunters in Alaskan villages. The hunt is managed cooperatively by the National Marine Fisheries Service (NMFS) and the Alaska Eskimo Whaling Commission under the WCA and the MMPA.

The MMHSRP of the NMFS and MMHSRP Stranding Agreement Holders are provided authority under this general permit because Stranding Agreement Holders are authorized to take marine mammals subject to the provisions of the MMPA (16 U.S.C. 136 1 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the Regulations Governing the Taking, Importing, and Exporting of Endangered and Threatened Fish and Wildlife (50 CFR parts 222 through 226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*). As such, MMHSRP Stranding Agreement Holders may have a need for ocean disposal should stranded marine mammals die.

III. Strandings and Beachings

Marine mammals that have died or have become sick or injured reach the ocean shoreline by a variety of mechanisms. One such mechanism is beaching, which involves a marine mammal carcass being driven ashore by currents or winds. Alternatively, single or multiple strandings of live marine mammal(s) may occur with the subsequent death of the animal(s). In most stranding cases, the causes of marine mammal strandings are unknown, but some identified causes include: disease, parasite infestation, harmful algal blooms, injuries due to ship strikes, fishery entanglements, pollution exposure, unusual weather or oceanographic events, trauma, and starvation. While many cetaceans and pinnipeds die every year, most carcasses never reach the coast; rather, the carcasses are consumed by other organisms or decompose sufficiently to sink to the ocean bottom where, depending upon the size of the carcass, they may form the basis of an "organic fall" (*e.g.*, kelp, wood, and whale falls) ecosystem.

Stranding or beaching events may pose a risk to public health due to the potential for transfer to the public of communicable diseases (*e.g.*, brucellosis, poxvirus and Mycobacteriosis) from cetacean or pinniped carcasses. Cetacean or pinniped carcasses present a significant disposal concern due not only to the size of some carcasses but also due to the frequency with which carcasses reach the shoreline. For example, between February 2010 and February 2014, over 1000 cetacean carcasses were found along the coast of the northern Gulf of Mexico.

IV. Hazard to Navigation

Floating carcasses near shore (*e.g.*, in a harbor) also may pose a hazard to navigation. Per regulations promulgated by the Army Corps of Engineers, at 33 CFR 245.20, the determination of a navigation hazard is made jointly by the Army Corps of Engineers and the U.S. Coast Guard (USCG). If such a determination is made, the Army Corps of Engineers determines appropriate remedial action as described in § 245.25, which may include removal of the carcass(es). Permit authorization to transport for the purpose of ocean disposal proposed today would be available if the removal operation requires ocean disposal of such carcasses.

V. Disposal and Management Options

Generally available options for marine mammal carcass disposal and management include: allowing the carcass(es) to decompose in place; burial in place; transportation to a landfill; incineration; and towing to sea for ocean disposal. Additional disposal options, such as rendering, composting, and alkaline hydrolysis, would depend on the availability of appropriate facilities. Selection of an option will depend upon factors such as carcass size, number of carcasses, and/or location. This proposed general permit concerns only the towing to sea for ocean disposal option.

A. In-Place Decomposition

Allowing a carcass to decompose in place may be an acceptable option if the location of the carcass is on a remote portion of the shoreline that is sufficiently distant from population centers so that the carcass does not pose a risk for public health and animal health, or result in unacceptable olfactory or visual aesthetic impacts. This option may be the most practical when the carcass is located in an area that is inaccessible to heavy equipment, thereby making other options, such as burying in place or moving to a landfill, infeasible.

B. In-Place and Landfill Burial

Burial of a carcass has been used as a disposal option, especially when the carcass is located near population centers or near areas used for recreational activities. A carcass may be buried near where the animal strands or beaches, usually above the high water mark, or transported inland for disposal, for example, at a municipal landfill. Disposal by trench burial involves excavating a trough, placing the carcass in the trench, and covering the carcass with the excavated material. The burial disposal option depends on the availability of appropriate excavation equipment but may be limited by potential environmental damage (*e.g.*, destruction of dunes, beach grass, or nesting sites) caused by the transportation and operation of excavation equipment. While burial may be a cost-effective option for carcass disposal, it may not necessarily eliminate disease agents and disease transmission vectors that may be present, consequently posing a potential risk to human health and animal health.

C. Incineration

The incineration option for carcass disposal, which includes both open-air burning and fixed-facility incineration, offers an advantage in terms of pathogen destruction. However, due to the high water content of marine mammal carcasses, incineration costs may limit this option to small carcasses. While open-air burning of carcasses may yield a relatively benign ash, the amount of particulate matter and pyrogenic compounds released to the atmosphere by open-air burning may be significant and may require authorization (or may be prohibited) under state or local air pollution control laws. Additionally, the EPA presumes that open-air burning may require the use of hydrocarbon fuels, which could result in contamination of the underlying soil. Fixed-facility incinerators, which include small and large incineration facilities, crematoria, and power plant incinerators, offer the advantage of being regulated facilities that meet local and/or federal emission standards; however, the use of the fixed-facility option depends upon the transportability of the carcass.

D. Ocean Disposal

Sometimes, the only available carcass disposal option is towing to sea for ocean disposal. Ocean disposal may be appropriate after consideration and exhaustion of land-based alternatives provided that an acceptable ocean dumping site can be identified, for example, where the release point is sufficiently far offshore that currents and winds will not return the carcass to shore, and the carcass will not pose a hazard to navigation. Positive buoyancy of the carcass may occur, depending on the time elapsed, due to the natural progression of the decomposition process. Consequently, appropriate carcass preparation (*e.g.,* attachment of weights) may be required if a determination is made that the carcass must be sunk, rather than released, at the identified ocean disposal site.

VI. Potential Consequences of Marine Mammal Carcass Disposal in the Ocean

Most deep-sea benthic ecosystems are organic-carbon limited and, in many cases, are dependent upon organic matter from surface waters. A sunken carcass provides a large load of organic carbon to the sea floor. These local enrichments of the sea floor result in the establishment of specialized assemblages. Large organic falls occur naturally on the sea floor. Over 20 macro faunal species are known to exclusively inhabit the microenvironment formed by large organic falls and over 30 other macro faunal species are known to inhabit these sites.

The deep-sea benthic ecosystem response to whale falls has been the subject of scientific study and several stages of succession have been observed in the assemblages. The duration of these stages varies greatly with carcass size. The first stage is marked by the formation of bathyal scavenger assemblages that include hagfishes, sleeper sharks, crabs, and amphipods. During the second stage, sediments surrounding the carcass, which have become enriched with organic carbon, become colonized by high densities of worms (*e.g.,* Dorvilleidae, Chrysopetalidae). Once the consumption of soft tissue is complete, decomposition proceeds dominantly via anaerobic microbial digestion of bone lipids. The efflux of sulfides from the bones may, depending upon the size of the skeleton, provide for the formation of chemoautotrophic assemblages, which is the third stage of succession. These chemoautotrophic assemblages consist of organisms such as heterotrophic bacteria, mussels, snails, worms, limpets, and amphipods.

Considering the available scientific information on organic falls, the EPA finds that the potential effects of carcass disposal are minimal for the following reasons: (1) Except for happenstance, cetacean and pinniped carcasses would sink to the ocean floor rather than wash ashore; (2) the formation of an organic fall is a naturally occurring phenomenon with no known adverse environmental impacts; and (3) towing or other transportation of a carcass to sea for ocean disposal, when other disposal options are not viable, presents a minimal perturbation to a naturally occurring phenomenon.

The EPA's findings are consistent with the statutory considerations applicable to permit issuance under the MPRSA because: the general permit requires consideration of land-based alternatives; carcass disposal will not significantly affect human health, fisheries resources, or marine ecosystems; and carcass disposal will not result in permanent effects.

VII. Regulatory Background

MPRSA Section 102(a)(1), 33 U.S.C. 1412(a)(1), requires that any person obtain a permit to transport any material from the United States for the purpose of dumping into ocean waters; section 102(a)(2) requires agencies or instrumentalities of the United States to obtain a permit in order to transport any material from any location for the purpose of ocean dumping. MPRSA Section 104(c), 33 U.S.C. 1414(c), and the EPA regulations at 40 CFR 220.3(a) authorize the issuance of a general permit under the MPRSA for the dumping of materials which have a minimal adverse environmental impact and are generally disposed of in small quantities. The towing (or other transportation) of a marine mammal carcass by any person for disposal at sea constitutes transportation of material for the purpose of dumping in ocean waters, and thus is subject to the MPRSA. Because the material to be disposed would consist of the carcass or carcasses, there would be no materials present that are prohibited by 40 CFR 227.5.

VIII. Consideration of Alaska Native Subsistence Users

The proposed general permit includes specific considerations that would apply to Alaska Native subsistence users. For purposes of this proposed general permit, EPA intends the term "Alaska Native subsistence user" to be based on the statutory term defined at 16 U.S.C. 1371(b) that refers to "any Indian, Aleut, or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean" who takes a marine mammal for subsistence purposes or for purposes of creating and selling authentic native articles of handicrafts and clothing and provided such taking is not in a wasteful manner.

The proposed general permit considers ocean disposal of marine mammal carcasses by an Alaska Native subsistence user for two reasons. First, marine mammals are generally abundant and widely distributed throughout coastal Alaska and Alaska Natives depend upon these natural resources for many customary and traditional uses. Collectively, these customary and traditional uses (*e.g.,* food, clothing) are referred to as "subsistence uses." Alaska Native subsistence use of marine mammals has been ongoing for thousands of years. More recently, the United States has recognized the importance of subsistence uses of marine mammals by Alaska Natives through enactment of the MMPA, which expressly exempts Alaska Native subsistence users from the general prohibition on "taking" marine mammals under certain circumstances (16 U.S.C. 1371(b)). Nonetheless, a potential by-product of such subsistence uses may be a need to transport and dispose, in ocean waters, marine mammal carcasses (or parts thereof) that have no further use for subsistence purposes.

Second, many coastal communities of Alaska Native subsistence users are in remote locations and thus face a time-critical public safety issue, for example, whenever a marine mammal carcass washes ashore near a village or town, or a marine mammal is harvested or salvaged and the carcass is hauled ashore near a village or town. Such carcasses may attract bears or other scavenger animals, which may increase the risk of human injury or mortality. For these reasons, it would be prudent to expedite the removal and, if necessary, ocean disposal of such carcasses as soon as practical.

With these considerations in mind, the intent of the Alaska Native subsistence users-specific permit conditions (see Section B) is, to the maximum extent allowable, to avoid unnecessary interference with long-standing subsistence uses and traditional cultural practices, and to recognize the unique circumstances faced by Alaska Native subsistence users. In proposing this general permit, the EPA does not intend to change, alter or otherwise affect subsistence uses of marine mammals by Alaska Natives. Section B thus sets forth requirements designed to address these considerations while also complying with the MPRSA and the EPA's accompanying regulations at 40 CFR subchapter H. The primary differences between Sections A and B relate to federal agency concurrences, distance from land requirements for disposal, and reporting requirements.

To further clarify, the proposed general permit is not intended to and would not regulate: Any subsistence activities in Alaska, including hunting, harvesting, salvaging, hauling, dressing, butchering, distribution and consumption of marine mammals (or any other species used for subsistence purposes); the transportation and dumping of marine mammal carcasses on land, such as in whale boneyards or in inland waters (*i.e.,* waters that are landward of the baseline of the territorial sea, such as rivers, lakes and certain enclosed bays or harbors); or leaving marine mammal carcasses to decompose in place on sea ice (or in a hole or lead in the sea ice), where there is no transportation by vessel or other vehicle for the purpose of ocean dumping. The purpose of this proposed general permit would be to expedite required authorizations that otherwise currently require the issuance of an emergency permit for the ocean disposal of marine mammal carcasses.

IX. Discussion

Considering the information presented in the previous section, EPA proposes to determine that the potential adverse environmental impacts of marine mammal carcass disposal at sea are minimal and that marine mammal carcasses often must be disposed of in emergency situations. As such, issuance of a general permit would be appropriate under the MPRSA.

Section A of the general permit that EPA proposes to issue today would be available to government entities and MMHSRP Stranding Agreement Holders. Section A would authorize any officer, employee, agent, department, agency, or instrumentality of federal, state, tribal, or local unit of government, as well as any MMHSRP Stranding Agreement Holder, to transport and dispose of marine mammal carcasses in ocean waters. EPA proposes to require each such general permittee to consult with the MMHSRP of NMFS prior to initiating any ocean disposal activities; to consult with and to obtain concurrence from the applicable USCG District Office, NMFS Regional Office, and EPA Regional Office on selection of a disposal site, which must be at least three miles seaward of the baseline of the territorial sea; and to submit a report to the EPA on the ocean disposal activities.

Section B of the proposed general permit would authorize any Alaska Native subsistence user to transport and dispose of marine mammal carcasses in ocean waters. EPA proposes to require each general permittee authorized under Section B to select an ocean disposal site sufficiently far offshore so that currents and winds will not return the carcass to shore and the carcass will not pose a hazard to navigation; and to submit a report to the EPA on the ocean disposal activities. The proposed general permit would not require a statement of need and rationale for selecting ocean disposal rather than other disposal options under Section B based on a presumption that other disposal options are not likely available in remote Native Alaskan subsistence communities. Additionally, the proposed general permit would not specify a distance requirement under Section B based on a presumption that large tow vessels are not likely available in remote Native Alaskan subsistence communities. These presumptions are consistent with EPA's intention to avoid altering Alaska Native subsistence user practices in Alaska. The EPA invites comments on the appropriateness of such presumptions for ocean dumping of marine mammals under Section B.

X. Statutory and Executive Order Reviews

A. Paperwork Reduction Act

The information collection activities that would be required under this proposed general permit would be covered under the MPRSA Information Collection Request (ICR) that has been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The ICR document that the EPA prepared for all of MPRSA activities has been assigned EPA ICR number 0824.06. You can find a copy of the ICR in the docket for this general permit, and it is briefly summarized here. The MPRSA ICR includes generalized estimates for respondent costs associated with possible future general permits including this one, but not specifically for this proposed general permit. Therefore, the estimated number of respondents and costs associated with this general permit are a subset of the total costs estimated in the ICR, and are significantly lower than the totals presented in the ICR due to the very simple reporting associated with this general permit.

Section 104(e) of the MPRSA authorizes EPA to collect information to ensure that ocean dumping is appropriately regulated and will not harm human health or the marine environment, based on applying the Ocean Dumping Criteria. To meet United States' reporting obligation under the London Convention, EPA also reports some of this information in the annual United States Ocean Dumping Report, which is sent to the International Maritime Organization.

Respondents/affected entities: any officer, employee, agent, department, agency, or instrumentality of federal, state, tribal, or local unit of government, as well as any MMHSRP Stranding Agreement Holder, and any Alaska Native subsistence user who disposes of a marine mammal carcass at sea would be affected by the general permit. Under this proposed general permit, respondents would not need to request a permit as they would already be covered under the general permit.

Respondent's obligation to respond: pursuant to 40 CFR 221.1 and 221.2, EPA requires all ocean dumping permit holders to supply the specified reporting information.

The number of respondents covered under the proposed general permit and associated costs can only be estimated at this time. Based on existing data of marine mammal ocean disposal requests, EPA would expect one to four responses per year under the provisions of Section A. Based upon the available data, EPA estimates that there will be 40 to 60 responses per year under the provisions of Section B.

Frequency of response: one or more disposal events could be included in a response.

Total estimated burden ranges from 3.75 to 15.00 hours per year and 30.00 to 45.00 hours per year under the requirements of Section A and Section B, respectively. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost ranges from $263.63 to $1,054.50 per year and

$2,109.00 to $3,163.50 per year under the requirements of Section A and Section B, respectively.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this general permit. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *oira_submissions@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than May 26, 2016. The EPA will respond to any ICR-related comments in the final general permit.

B. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. The proposed general permit has tribal implications because it may affect traditional practices of some tribes.

The EPA consulted with tribal officials under the EPA Policy on Consultation and Coordination with Indian Tribes early in the process of developing this general permit to allow them to have meaningful and timely input into its development.

On June 2, 2015, EPA mailed a Tribal Leader Notification letter with a consultation plan to all coastal tribes in the Lower 48 States and Alaska, who could be potentially impacted by the proposed general permit. EPA held two teleconferences on June 16th and 30th. Via teleconference and email, the Agency received input from three tribes: Aleutian Pribilof Island Association, Coquille tribe, and Trinidad Rancheria tribe. In addition, EPA coordinated with the Alaska Eskimo Whaling Commission through a briefing and discussion on July 17, 2015. Tribal concerns during consultation focused on the potential to impact traditional hunting and whaling practices, and providing coverage under the general permit to tribes.

After considering tribal input, EPA made certain changes to address tribal concerns. The initial scope of the proposed general permit would have applied to only the at sea disposal of large carcasses (*e.g.,* whales, walruses), from land, which have died and subsequently washed ashore or died after becoming stranded. Through additional outreach with Alaska Native villages, we learned that the initial scope of the general permit was inadequate for subsistence users; consequently, we broadened the scope to include all marine mammal carcasses. Additionally, coverage under the general permit was initially intended for state and municipal governments; however, based upon comments from two tribal representatives, coverage will be extended to all tribal governments.

Dated: April 18, 2016.

Bill Long,

Acting Director, Oceans and Coastal Protection Division.

General Permit for Ocean Disposal of Marine Mammal Carcasses

A. General Requirements for Governmental Entities and Stranding Agreement Holders

Except as provided in Section B below, any officer, employee, agent, department, agency, or instrumentality of federal, state, tribal, or local unit of government, as well as any MMHSRP Stranding Agreement Holder, is hereby granted a general permit to transport and dispose of marine mammal carcasses in ocean waters subject to the following conditions:

1. The Permittee shall consult with the MMHSRP of NMFS prior to initiating any disposal activities.
2. A disposal site must be at least three miles seaward of the baseline from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone. The Permittee shall consult with and obtain written concurrence (via email or letter) from the applicable USCG District Office, NMFS Regional Office, and EPA Regional Office on ocean disposal site selection. A fact sheet containing points of contact at USCG, NMFS, and EPA is available at *http://www.epa.gov/ocean-dumping/ocean-disposal-marine-mammal-carcasses.*
3. If a determination is made that the carcass must be sunk, rather than released at the disposal site, the transportation and dumping of any materials other than the materials necessary to ensure the sinking of the carcass are not authorized under this general permit and constitute a violation of the MPRSA. If materials are used to sink the carcass, the Permittee must consult with and obtain written concurrence (via email or letter) from the applicable EPA Regional Office on the selection of materials. Any materials described in 40 CFR 227.5 (prohibited materials) or 40 CFR 227.6 (constituents prohibited as other than trace amounts) may not be used.
4. The Permittee shall submit a report on the dumping activities authorized by this general permit to the applicable EPA Regional Office within 30 days after carcass disposal. This report shall include:
   a. A description of the carcass(es) disposed;
   b. The date, time, and location (by latitude and longitude) at the degree of precision available to the person reporting the information, for example, locational technology available on board the tow vessel used for ocean disposal;
   c. The name, title, affiliation, and contact information of the person in charge of the disposal operation and the person in charge of the vessel or vehicle that transported the carcass (if different than the person in charge of the disposal);
   d. A statement of need and rationale for selecting ocean disposal rather than other disposal options; and
   e. Copies of correspondence from USCG and NMFS that indicate their concurrence on the selection of the disposal site.
5. The Permittee shall immediately notify EPA of any violation of any condition of this general permit.

B. Requirements for Alaska Native Subsistence Users

Notwithstanding Section A, any Alaska Native subsistence user is hereby granted a general permit to transport and dispose of marine mammal carcasses in ocean waters subject to the following conditions:

1. The Permittee shall submit a report on the dumping activities authorized by this general permit to EPA Region 10 within 30 days after disposal of a carcass. This report shall include:
   a. A description of the carcass(es) disposed;
   b. The date, time, and location (by latitude and longitude) at the degree of precision available to the person reporting the information, for example, locational technology available on board the tow vessel used for ocean disposal; and
   c. The name and contact information of the person in charge of the disposal and the person in charge of the vessel or vehicle that transported the carcass (if different from the person in charge of the disposal).
2. Marine mammal carcasses must be towed or otherwise transported to a site offshore where currents and winds will not return the carcass to shore and the carcass will not pose a hazard to navigation.

[FR Doc. 2016–09734 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9931–87–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Kansas' request to revise its National Primary Drinking Water Regulations Implementation EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective May 26, 2016 for the State of Kansas' National Primary Drinking Water Regulations Implementation program, if no timely request for a public hearing is received and accepted by the Agency.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On March 29, 2016, the Kansas Department of Health and Environment (KDHE) submitted an application titled Compliance Monitoring Data Portal for revision to its EPA-approved drinking water program under title 40 CFR to allow new electronic reporting. EPA reviewed KDHE's request to revise its EPA-authorized program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Kansas' request to revise its Part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting under 40 CFR part 141 is being published in the **Federal Register**.

KDHE was notified of EPA's determination to approve its application with respect to the authorized program listed above.

In today's notice, EPA is also informing interested persons that they may request a public hearing on EPA's action to approve the State of Kansas' request to revise its authorized public water system program under 40 CFR part 142, in accordance with 40 CFR 3.1000(f). Requests for a hearing must be submitted to EPA within 30 days of publication of today's **Federal Register** notice. Such requests should include the following information:

(1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in EPA's determination, a brief explanation as to why EPA should hold a hearing, and any other information that the requesting person wants EPA to consider when determining whether to grant the request;

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

In the event a hearing is requested and granted, EPA will provide notice of the hearing in the **Federal Register** not less than 15 days prior to the scheduled hearing date. Frivolous or insubstantial requests for hearing may be denied by EPA. Following such a public hearing, EPA will review the record of the hearing and issue an order either affirming today's determination or rescinding such determination. If no timely request for a hearing is received and granted, EPA's approval of the State of Kansas' request to revise its part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting will become effective 30 days after today's notice is published, pursuant to CROMERR section 3.1000(f)(4).

Matthew Leopard,

Director, Office of Information Collection.

[FR Doc. 2016–09575 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9944–14–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Rhode Island's request to revise its National Primary Drinking Water Regulations Implementation EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective May 26, 2016 for the State of Rhode Island's National Primary Drinking Water Regulations Implementation program, if no timely request for a public hearing is received and accepted by the Agency.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements. Once an authorized program has EPA's approval to accept electronic documents under certain programs, CROMERR § 3.1000(a)(4) requires that the program keep EPA apprised of any changes to laws, policies, or the electronic document receiving systems that have the potential to affect the program's compliance with CROMERR § 3.2000.

On March 16, 2016, the Rhode Island Department of Health (RI DOH) submitted an amended application titled Compliance Monitoring Data Portal for revision to its EPA-approved drinking water program under title 40 CFR to allow new electronic reporting. EPA reviewed RI DOH's request to revise its EPA-authorized program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision/modification set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Rhode Island's request to revise its Part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting under 40 CFR part 141 is being published in the **Federal Register**.

RI DOH was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Also, in today's notice, EPA is informing interested persons that they may request a public hearing on EPA's action to approve the State of Rhode Island's request to revise its authorized public water system program under 40 CFR part 142, in accordance with 40 CFR 3.1000(f). Requests for a hearing must be submitted to EPA within 30 days of publication of today's **Federal Register** notice. Such requests should include the following information:

(1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in EPA's determination, a brief explanation as to why EPA should hold a hearing, and any other information that the requesting person wants EPA to consider when determining whether to grant the request;

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

In the event a hearing is requested and granted, EPA will provide notice of the hearing in the **Federal Register** not less than 15 days prior to the scheduled hearing date. Frivolous or insubstantial requests for hearing may be denied by EPA. Following such a public hearing, EPA will review the record of the hearing and issue an order either affirming today's determination or rescinding such determination. If no timely request for a hearing is received and granted, EPA's approval of the State of Rhode Island's request to revise its part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting will become effective 30 days after today's notice is published, pursuant to CROMERR section 3.1000(f)(4).

Matthew Leopard,

Director, Office of Information Collection.

[FR Doc. 2016–09579 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL_9944–27–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Alabama

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Alabama's request to revise/modify its General Pretreatment Regulations for Existing and New Sources of Pollution EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective April 26, 2016.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements. Once an authorized program has EPA's approval to accept electronic documents under certain programs, CROMERR § 3.1000(a)(4) requires that the program keep EPA apprised of any changes to laws, policies, or the electronic document receiving systems that have the potential to affect the program's compliance with CROMERR § 3.2000.

On October 14, 2014, the Alabama Department of Environmental Management (ADEM) submitted an amended application titled "Electronic Environmental Data Exchange Reporting System" for revision/modification to its EPA-approved pretreatment program under title 40 CFR to allow new electronic reporting. EPA reviewed ADEM's request to revise/modify its EPA-authorized Part 403—General Pretreatment Regulations for Existing and New Sources of Pollution and, based on this review, EPA determined that the application met the standards for approval of authorized program revision/modification set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Alabama's request to revise/modify its Part 403—General Pretreatment Regulations for Existing and New Sources of Pollution to allow electronic reporting under 40 CFR parts 403–471 is being published in the **Federal Register**.

ADEM was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Matthew Leopard,
Director, Office of Information Collection.

[FR Doc. 2016–09574 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0374; FRL–9944–96]

Pesticide Experimental Use Permit; Receipt of Application; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of an application (88877–EUP–2) from the University of Kentucky's Department of Entomology requesting an amendment and extension to an already existing experimental use permit (EUP) for *Wolbachia pipientis, w*AlbB Strain. EPA has determined that the permit may be of regional or national significance. Therefore, because of the potential significance, EPA is seeking comments on this application.

DATES: Comments must be received on or before May 26, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2015–0374, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, EPA has not attempted to describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, EPA seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

II. What action is EPA taking?

Under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136c, EPA can allow manufacturers to field test pesticides under development. Manufacturers are required to obtain an EUP before testing new pesticides or new uses of pesticides if they conduct experimental field tests on 10 acres or more of land or one acre or more of water.

Pursuant to 40 CFR 172.11(a), EPA has determined that the following EUP application may be of regional or national significance, and therefore is seeking public comment on the EUP application:

Submitter: University of Kentucky, Department of Entomology, S–225 Agricultural Science Center North, Lexington, KY 40546–0091, (88877–EUP–2).

*Pesticide Chemical: Wolbachia pipientis, w*AlbB Strain.

Summary of Request: The University of Kentucky's Department of Entomology has proposed to continue to field test a new strain of *Wolbachia pipientis* (*w*AlbB Strain) to determine its pesticidal value for suppression and elimination of *Aedes aegypti,* a mosquito that vectors some human diseases, *e.g.,* chikungunya, dengue, and Zika viruses. Under the currently approved EUP, the University of Kentucky is authorized to release and monitor 2,400,000 male *Aedes aegypti* WB1 Strain mosquitoes that contain the pesticidal active ingredient *Wolbachia pipientis, w*AlbB Strain (5.672×10^{-5} ounce) in Fresno County, California in 2015 and 2016 over 840 acres. The University of Kentucky has requested to amend and extend this EUP by adding sites in Orange County, California and Monroe County, Florida (Florida Keys) in 2016 and 2017 and by continuing testing in Fresno County, California in 2017. Up to 12,000,000 additional male *Aedes aegypti* WB1 Strain mosquitoes containing *Wolbachia pipientis, w*AlbB Strain (28.36×10^{-5} ounce) are proposed to be released and up to 748.3 additional acres (includes point-source release and surveillance/monitoring acreage) will be involved in testing in 2016 and 2017. The released male mosquitoes are expected to mate with indigenous female mosquitoes, causing conditional sterility and resulting in population decline and potential elimination. Adult and egg collection data from the treated areas will be compared to data from control sites to evaluate the effect of the pesticide on mosquito populations. (Note: Male mosquitoes, which the University of

Kentucky is releasing or proposing to release, do not bite humans and feed on nectar to survive.)

Following the review of the application and any comments and data received in response to this solicitation, EPA will decide whether to amend and extend or deny the EUP request, and if amended and extended, the conditions under which it is to be conducted. Any amendment and extension of the EUP will be announced in the **Federal Register**.

Authority: 7 U.S.C. 136 *et seq.*

Dated: April 18, 2016.

Mark A. Hartman, Acting

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 2016–09745 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2015–0809; FRL–9944–51–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Part B Permit Application, Permit Modifications, and Special Permits (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "Part B Permit Application, Permit Modifications, and Special Permits (Renewal)" (EPA ICR No. 1573.14, OMB Control No. 2050–0009) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through April 30, 2016. Public comments were previously requested via the **Federal Register** (81 FR 1415) on January 12, 2016 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before May 26, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–RCRA–2015–0809, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *rcra-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Peggy Vyas, Office of Resource Conservation and Recovery (mail code 5303P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 703–308–5477; email address: *vyas.peggy@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Section 3005 of Subtitle C of RCRA requires treatment, storage or disposal facilities (TSDFs) to obtain a permit. To obtain the permit, the TSDFs must submit an application describing the facility's operation. There are two parts to the RCRA permit application—Part A and Part B. Part A defines the processes to be used for treatment, storage, and disposal of hazardous wastes; the design capacity of such processes; and the specific hazardous wastes to be handled at the facility. Part B requires detailed site specific information such as geologic, hydrologic, and engineering data. In the event that permit modifications are proposed by the applicant or the EPA, modifications must conform to the requirements under Sections 3004 and 3005.

Form Numbers: None.

Respondents/affected entities: Hazardous waste treatment, storage, and disposal facilities and State, Local, or Tribal governments.

Respondent's obligation to respond: Mandatory (RCRA Section 3005).

Estimated number of respondents: 159.

Frequency of response: On occasion.

Total estimated burden: 24,926 hours (per year). Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: $7,901,274 (per year), includes $5,735,647 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase of 1,257 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to the larger number of affected facilities, based on the current information and reporting requirements from the RCRAInfo database.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2016–09545 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0653; FRL–9944–49–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Steel Plants: Electric Arc Furnaces and Argon Oxygen Decarburization Vessels (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "NSPS for Steel Plants: Electric Arc Furnaces and Argon Oxygen Decarburization Vessels (40 CFR part 60, subparts AA and AAa) (Renewal)" (EPA ICR No. 1060.17, OMB Control No. 2060–0038), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through April 30, 2016. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond

to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before May 26, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ– OECA–2012–0653, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of steel plants are required to comply with reporting and record keeping requirements for the general provisions of 40 CFR part 60, subpart A, as well as the applicable standards in 40 CFR part 60, subparts AA and AAa. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Steel plants that produce carbon, alloy, or specialty steels: electric arc furnaces (EAFs), argon oxygen decarburization (AOD) vessels, and dust handling systems.

Respondent's obligation to respond: Mandatory (40 CFR part 60 Subparts AA and AAa).

Estimated number of respondents: 99.6 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 62,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $6,430,000 (per year), which includes $203,000 in both annualized capital/startup and operation & maintenance costs.

Changes in the Estimates: There is an increase in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The increases in burden, including number of responses, labor hours, labor costs, and O&M costs reflect an increase in the number of respondents. The new number of respondents accounts for the one new source that is subject to the rule since the last ICR period. Further, this ICR assumes existing respondents will take some time to re-familiarize themselves with the regulatory requirements each year, which results in an increase in the estimated labor hours and costs.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2016–09567 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0659; FRL–9944–60–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Perchloroethylene Dry Cleaning Facilities (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "NESHAP for Perchloroethylene Dry Cleaning Facilities (40 CFR part 63, subpart M) (Renewal)" (EPA ICR No. 1415.11, OMB Control No. 2060–0659), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through April 30, 2016. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before May 26, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0659, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of perchloroethylene dry cleaning facilities are required to comply with reporting and record keeping requirements for the general provisions of 40 CFR part 63, subpart A, as well as the applicable standards in 40 CFR part 63, subpart M. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with these standards.

Form Numbers: None.

Respondents/affected entities: Dry cleaning facilities that use perchloroethylene.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart M).

Estimated number of respondents: 28,012 (total).

Frequency of response: Initially and occasionally.

Total estimated burden: 1,590,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $167,000,000 (per year), which includes $947,000 in both annualized capital/startup and operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in respondent labor hours in this ICR from the most-recently approved ICR. This is due to assuming all existing sources will have to re-familiarize with the regulatory requirements each year. Additionally, there is an increase in the total capital and O&M cost due to the rounding of all calculated values to three significant digits.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2016–09548 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2004–0008; FRL–9945–19–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Consolidated Superfund Information Collection Request (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "Consolidated Superfund Information Collection Request (Renewal)", (EPA ICR No. 1487.13, OMB Control No. 2050–0179) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through April 30, 2016. Public comments were previously requested via the **Federal Register** (80 FR 76015) on December 7, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before May 26, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–SFUND–2004–0008, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *superfund.docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Laura Knudsen, Office of Solid Waste and Emergency Response, Assessment and Remediation Division, (5204P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 703–603–8861; email address: *knudsen.laura@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets*.

Abstract: This ICR covers the following: The collection of information under 40 CFR part 35, subpart O, which establishes the administrative requirements for cooperative agreements funded under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for state, federally-recognized Indian tribal governments, and political subdivision response actions; the application of the Hazard Ranking System (HRS) by states as outlined by section 105 of CERCLA (1980 and 1986) that amends the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) to include criteria prioritizing releases throughout the U.S. before undertaking remedial action at uncontrolled hazardous waste sites; and the remedial portion of the Superfund program as specified in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended (CERCLA) and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). For Cooperative Agreements and Superfund State Contracts for Superfund Response Actions, the information is collected from applicants and/or recipients of EPA assistance and is used to make awards, pay recipients, and collect information on how federal funds are being utilized. EPA requires this information to meet its federal stewardship responsibilities. Recipient responses are required to obtain a benefit (federal funds) under 40 CFR part 31, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" and under 40 CFR part 35, "State and Local Assistance." For the Superfund Site Evaluation and Hazard Ranking System, the states will apply the HRS by identifying and classifying those releases or sites that warrant further investigation. The HRS score is crucial since it is the primary mechanism used to determine whether a site is eligible to be included on the National Priorities List (NPL). Only sites on the NPL are eligible for Superfund-financed remedial actions. For the NCP information collection, some community involvement activities covered by this ICR are not required at every site (*e.g.*, Technical Assistance Grants) and depend very much on the community and the nature of the site and cleanup. All community activities seek to involve the public in the cleanup of the sites, gain the input of community members, and include the community's perspective on the potential future reuse of Superfund NPL sites. Community involvement activities can enhance the remedial process and increase community acceptance and the potential for productive and beneficial reuse of the sites.

Form Numbers: 6200–11.

Respondents/affected entities: State, Local or Tribal Governments; Communities; U.S. Territories.

Respondent's obligation to respond: Required to obtain benefits (40 CFR part 35; section 105 of the CERCLA, 1980 and 1986; 40 CFR part 300 under CERCLA).

Estimated number of respondents: 14,284 (total).

Frequency of response: Annually.

Total estimated burden: 876,529 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $514,952 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase of 568,071 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to a 28% increase in the number of assessment reports by respondents for the Superfund Site Evaluation and Hazard Ranking System, an overall increase in respondents for the Cooperative Agreements and Superfund State Contracts for Superfund Response Actions, and an increase in total contractor hours for an RI/FS project for the National Oil and Hazardous Substances Pollution Contingency Plan.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2016–09547 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2015–0808; FRL–9945–30–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types (Renewal)" (EPA ICR No. 1572.11, OMB Control No. 2050–0050) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through April 30, 2016. Public comments were previously requested via the **Federal Register** (81 FR 1420) on January 12, 2016 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before May 26, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–RCRA–2015–0808, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *rcra-docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Norma Abdul-Malik, Office of Resource Conservation and Recovery (5303P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 703–308–8753; email address: *abdul-malik.norma@epa.gov.*

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: This ICR provides a discussion of all of the information collection requirements associated with specific unit standards applicable to owners and operators of facilities that treat, store, or dispose of hazardous wastes as defined by 40 CFR part 261. It includes a detailed description of the data items and respondent activities associated with each requirement and with each hazardous waste management unit at a facility. The specific units and processes included in this ICR are: Tank systems, Surface impoundments, Waste piles, Land treatment, Landfills, Incinerators, Thermal treatment, Chemical, physical, and biological treatment, Miscellaneous (subpart X), Drip pads, Process vents, Equipment leaks, Containment buildings, and Recovery/recycling.

With each information collection covered in this ICR, the EPA is aiding the goal of complying with its statutory mandate under RCRA to develop standards for hazardous waste treatment, storage, and disposal facilities, to protect human health and the environment. Without the information collection, the agency cannot assure that the facilities are designed and operated properly.

Form Numbers: None.

Respondents/affected entities: Hazardous waste facilities; State, Local, or Tribal governments.

Respondent's obligation to respond: Mandatory (40 CFR 261, 264, 265, and 266).

Estimated number of respondents: 4,543 (total).

Frequency of response: On occasion.

Total estimated burden: 654,097 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $25,535,215 (per year), includes $3,682,707 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase of 17,085 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is mainly due to an increase in the number of tank systems reporting in RCRAInfo.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2016–09546 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0163; FRL–9944–95]

Amendments, Extensions, and/or Issuances of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted amendments, extensions, and/or issuances of experimental use permits (EUPs) to the pesticide applicants described in Unit II of the **SUPPLEMENTARY INFORMATION**. An EUP permits use of a pesticide for experimental or research purposes only in accordance with the limitations in the permit.

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, EPA has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The dockets for these actions, identified by the docket identification (ID) numbers as shown in the body of this document, are available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

II. EUPs

EPA has issued the following EUPs:

1. *8917–EUP–2.* (EPA–HQ–OPP–2015–0516). Amendment and Extension. J.R. Simplot Co., 5369 W. Irving St., Boise, ID 83706. This EUP allows the use of 13,000,000 pounds of seed potatoes containing 0.390 pound of VNT1 protein (or 3.90×10^{-1} pound of VNT1 protein) on 5,576 acres (*i.e.*, 5,200 *Rpi-vnt1* plant-incorporated protectant (PIP) acres and 376 maximum border acres) to evaluate resistance to *Phytophthora infestans* (commonly known as late potato blight). The program is authorized only in the states of Arizona, California, Colorado, Florida, Hawaii, Idaho, Illinois, Indiana, Kansas, Maine, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Oregon, Pennsylvania, South Carolina, Texas, Utah, Washington, and Wisconsin. The EUP is effective from December 17, 2015, to April 1, 2017.

2. *62719–EUP–66.* (EPA–HQ–OPP–2014–0521). Amendment and Extension. Dow AgroSciences, LLC, 9330 Zionsville Rd., Indianapolis, IN 46268–1054. This EUP allows the use of 8.509 pounds of active ingredient (0.399, 0.120, 9.364×10^{-7}, 0.448, 6.22, 0.152, and 1.17 pounds of *Bacillus thuringiensis* (*Bt*) Cry1A.105 protein, *Bt* Cry2Ab2 protein, *DvSnf7* double-stranded RNA (dsRNA), *Bt* Cry1F protein, *Bt* Cry34Ab1 protein, *Bt* Cry35Ab1 protein, and *Bt* Cry3Bb1 protein, respectively) in 456,699 pounds of corn seed and involves 5,844 acres (*i.e.*, 2,660 PIP acres, 1,312 non-PIP acres, and 1,872 border acres) for inbred and hybrid development, nursery observations, and testing and collection of product characterization data. The program is authorized only in the commonwealth of Puerto Rico and in the states of Arkansas, California, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, and Wisconsin. The EUP is effective from March 4, 2016, to March 31, 2017.

3. *88877–EUP–2.* (EPA–HQ–OPP–2015–0374). Issuance. University of Kentucky, Department of Entomology, S–225 Agricultural Science Center North, Lexington, KY 40546–0091. This EUP allows the use of 2,400,000 male *Aedes aegypti* WB1 Strain mosquitoes weighing 5.672 ounces and containing 5.672×10^{-5} ounce of the active ingredient *Wolbachia pipientis*, *w*AlbB Strain to evaluate the active ingredient's effectiveness in suppressing and eliminating *Aedes aegypti* mosquitoes. The program is authorized only in the state of California over 840 acres (release and surveillance/monitoring acreage). The EUP is effective from October 15, 2015, to December 31, 2016. EPA received two comments, a positive one from the Consolidated Mosquito Abatement District in California and a negative one that was anonymous. As the anonymous commenter did not specify any particular safety concern with regard to this EUP's issuance, the comment was not considered further.

Authority: 7 U.S.C. 136 *et seq.*

Dated: April 18, 2016.

Robert C. McNally,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 2016–09744 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0794; FRL–9943–82]

Aldicarb, Bensulide, Coumaphos, Ethalfluralin, and Pirimiphos-methyl Registration Review; Draft Human Health and Ecological Risk Assessments; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's draft human health risk and draft ecological risk assessments for aldicarb, bensulide, coumaphos, ethalfluralin, and pirimiphos-methyl and opens a public comment period on these documents. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed a comprehensive draft human health and ecological risk assessments for all aldicarb, bensulide, coumaphos, ethalfluralin, and pirimiphos-methyl uses. After reviewing comments received during the public comment period, EPA will issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments and may request public input on risk mitigation before completing a proposed registration review decision for aldicarb, bensulide, coumaphos, ethalfluralin, and pirimiphos-methyl. Through this program, EPA is ensuring that each pesticide's registration is based on

current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before June 27, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2015–0794, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information contact:* The Chemical Review Manager listed in Table 1of Unit III.

For general questions on the registration review program, contact: Richard Dumas, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8015; email address: *dumas.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager listed in Table 1 of Unit III.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Authority

EPA is conducting its registration review of aldicarb, bensulide, coumaphos, ethalfluralin, and pirimiphos-methyl pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registration for aldicarb, bensulide, coumaphos, ethalfluralin, and pirimiphos-methyl to ensure that it continues to satisfy the FIFRA standard for registration—that is, that aldicarb, bensulide, coumaphos, ethalfluralin, and pirimiphos-methyl can still be used without unreasonable adverse effects on human health or the environment.

TABLE 1—DRAFT RISK ASSESSMENTS BEING MADE AVAILABLE FOR PUBLIC COMMENT

Registration review case name and number	Docket ID number	Chemical review manager and contact information
Aldicarb 0140	EPA–HQ–OPP–2012–0161	Susan Bartow, *bartow.susan@epa.gov*, (703) 603–0065.
Bensulide 2035	EPA–HQ–OPP–2008–0022	Margaret Hathaway, *hathaway.margaret@epa.gov*, (703) 305–5076.
Coumaphos 0018	EPA–HQ–OPP–2008–0023	Brian Kettl, *kettl.brian@epa.gov*, (703) 347–0535.
Ethalfluralin 2260	EPA–HQ–OPP–2011–0094	Kelly Ballard, *ballard.kelly@epa.gov*, (703) 305–8126.
Pirimiphos-methyl 2535	EPA–HQ–OPP–2009–0056	Caitlin Newcamp, *newcamp.caitlin@epa.gov*, (703) 347–0397.

Aldicarb. Draft Human Health and Ecological Risk Assessments (EPA–HQ–OPP–2012–0161). Aldicarb is a systemic carbamate insecticide, acaricide, and nematicide registered for use on cotton, dry beans, peanuts, soybeans, sugar beets, and sweet potatoes. It is not registered for non-agricultural/residential use. EPA conducted a comprehensive human health risk assessment including a highly refined acute dietary exposure assessment for all existing food uses of aldicarb. Acute dietary exposure estimates for drinking water as well as food and drinking water combined are of concern. A commodity specific analysis (CSA) was conducted to obtain estimates of acute exposure and risk following a single consumption of a single commodity. Exposure estimates were above the level of concern for children following consumption of sweet potatoes or potatoes. Additionally, there are short- and intermediate-term occupational handler risk estimates of concern for the registered uses of aldicarb with label-specified personal protective equipment. EPA also conducted a screening level ecological risk assessment and identified potential risks to both aquatic and terrestrial non-target organisms. The assessments did not cover the EDSP component of this registration review case, nor does it include a full pollinator assessment or a complete endangered species assessment.

Bensulide. Draft Human Health and Ecological Risk Assessments (EPA–HQ–OPP–2008–0022). Bensulide is a systemic organophosphate herbicide registered to control grasses and broadleaf weeds in a variety of agricultural (*e.g.*, lettuce, cantaloupe, broccoli) and non-agricultural (golf course, turf farm, residential lawn, rights-of-way, and landscaping) settings, and is usually applied to bare ground before crops are planted. EPA conducted a comprehensive human health risk assessment and identified risks of concern for dietary, residential, occupational, and spray drift exposures. The bensulide risk assessment retained the FQPA 10x safety factor due to the uncertainty in the human dose-response relationship for neuro-developmental effects. EPA also conducted an ecological risk assessment for bensulide, which identified risks of concern for non-listed species for birds, reptiles, and terrestrial-phase amphibians; mammals; freshwater fish and aquatic-phase amphibians; marine/estuarine fish; freshwater invertebrates; and aquatic vascular plants. Neither an endangered species assessment nor a pollinator assessment been completed for bensulide at this time. Bensulide is on the second list of chemicals for tier one screening under the Endocrine Disruptor Screening Program (EDSP).

Coumaphos. Draft Human Health and Ecological Risk Assessments (EPA–HQ–OPP–2008–0023). Coumaphos is an organophosphate acaricide. It is used to control ticks and mites on livestock, as well as to control varroa mites and small hive beetles in beehives. The human health risk assessment for coumaphos found dietary risks of concern, with food (beef meat) being the driver in the steady state risk estimates. In addition, almost all of the occupational exposure scenarios show risks of concern for both dermal and inhalation routes of exposure at varying levels of personal protection equipment and all formulations with the exception of liquid. The coumaphos risk assessment retained the FQPA 10x safety factor due to the uncertainty in human dose-response relationship for neuro-developmental effects. Coumaphos is expected to pose an acute risk to birds. Coumaphos is not expected to pose a risk to endangered or non-endangered mammals because of its limited use pattern. Coumaphos usage on cattle may pose a high acute risk to aquatic invertebrates. Coumaphos is not expected to pose chronic or acute risks to listed or non-listed fish. Neither a comprehensive endangered species assessment nor a pollinator assessment has been completed for coumaphos at this time. Coumaphos is on the second list of chemicals for Tier 1 screening under EDSP.

Ethalfluralin. Draft Human Health and Ecological Risk Assessments (EPA–HQ–OPP–2011–0094). Ethalfluralin is a preemergence herbicide used to control a variety of annual grasses and broadleaf weeds on agricultural sites. Ethalfluralin has multiple end-use products that are registered for use on various agricultural crops. EPA conducted a comprehensive human health risk assessment and did not identify any risks of concern. EPA also conducted an ecological risk assessment. Potential risks to aquatic animals, aquatic and terrestrial plants, and mammals were identified. The assessments did not cover the EDSP component of this registration review case, nor does it include either a full pollinator assessment or a complete endangered species assessment.

Pirimiphos-methyl. Draft Human Health Risk and Ecological Assessments (EPA–HQ–OPP–2009–0056). Pirimiphos-methyl is a member of the organophosphate class of pesticides. Currently, it is registered for use as an insecticide in cattle ear tags, and on post-harvest stored grain/seeds (sorghum and corn). There are two special local need FIFRA section 24(c) registrations: A fogger treatment on iris bulbs in Washington, and a fogger and drench treatment on gladiola bulbs in Michigan. EPA conducted a human health risk assessment, and did not identify any risks of concern for dietary or residential exposures. However, risks of concern were identified for occupational exposure and for all handler scenarios. The pirimiphos-methyl risk assessment retained the FQPA 10x safety factor due to the uncertainty in human dose-response relationship for neuro-developmental effects. EPA also conducted a quantitative ecological risk assessment and identified potential risks to terrestrial and aquatic invertebrates. A complete endangered species assessment nor a pollinator assessment has been completed for pirimiphos-methyl. The assessments did not cover the EDSP component of this registration review case.

Pursuant to 40 CFR 155.53(c), EPA is providing an opportunity, through this notice of availability, for interested parties to provide comments and input concerning the Agency's draft human health and ecological risk assessments for aldicarb, bensulide, coumaphos, ethalfluralin, and pirimiphos-methyl. Such comments and input could address, among other things, the Agency's risk assessment methodologies and assumptions, as applied to this draft risk assessment. The Agency will consider all comments received during the public comment period and make changes, as appropriate, to the draft human health and ecological risk assessments. EPA will then issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments. In the **Federal Register** notice announcing the availability of the revised risk assessment, if the revised risk assessment indicates risks of concern, the Agency may provide a comment period for the public to submit suggestions for mitigating the risk identified in the revised risk assessment before developing a proposed registration review decision on aldicarb, bensulide, coumaphos, ethalfluralin, and pirimiphos-methyl.

1. *Other related information*. Additional information on aldicarb, bensulide, coumaphos, ethalfluralin, and pirimiphos-methyl is available on the Agency's registration review program and its implementing regulation is available at *https://www.epa.gov/pesticide-reevaluation*.

2. *Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 14, 2016.

Yu-Ting Guilaran,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2016–09732 Filed 4–25–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 20, 2016.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *United Community Banks, Inc.*, Blairsville, Georgia; to merge with Tidelands Bancshares, Inc., and thereby acquire Tidelands Bank, both of Mt. Pleasant, South Carolina.

B. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Stupp Bros., Inc., and Midwest BankCentre, Inc.*, both of St. Louis, Missouri, to indirectly acquire 100 percent of the voting shares of Bremen Bancorp, Inc., and thereby indirectly acquire Bremen Bank and Trust Company, both in St Louis, Missouri.

Board of Governors of the Federal Reserve System, April 21, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–09634 Filed 4–25–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0145]; [Docket 2016–0053; Sequence 7]

Submission for OMB Review; Use of Data Universal Numbering System (DUNS) as Primary Contractor Identification

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning use of the Data Universal Numbering System (DUNS) as primary contractor identification. The DUNS number is the nine-digit identification number assigned by Dun and Bradstreet Information Services to an establishment. A notice was published in the **Federal Register** at 81 FR 6860 on February 9, 2016. Two respondents submitted eight comments that were received.

DATES: Submit comments on or before May 26, 2016.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 9000–0145, Use of Data Universal Numbering System (DUNS) as Primary Contractor Identification". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0145, Use of Data Universal Numbering System (DUNS) as Primary Contractor

Identification" on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0145, Use of Data Universal Numbering System (DUNS) as Primary Contractor Identification.

Instructions: Please submit comments only and cite Information Collection 9000–0145, Use of Data Universal Numbering System (DUNS) as Primary Contractor Identification, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA 202–501–1448 or via email at *curtis.glover@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The Data Universal Numbering System (DUNS) number is the nine-digit identification number assigned by Dun and Bradstreet Information Services to an establishment. The Government uses the DUNS number to identify contractors in reporting to the Federal Procurement Data System (FPDS). The FPDS provides a comprehensive mechanism for assembling, organizing, and presenting contract placement data for the Federal Government. Federal agencies report data on all contracts in excess of the micro-purchase threshold to the Federal Procurement Data Center which collects, processes, and disseminates official statistical data on Federal contracting. Contracting officers insert the Federal Acquisition Regulation (FAR) provision at 52.204–6, Data Universal Numbering System (DUNS) Number, in solicitations they expect will result in contracts in excess of the micro-purchase threshold and do not contain FAR 52.204–7, Central Contractor Registration. The majority of offerors submit their DUNS through CCR as required by FAR 52.204–7, and not under the FAR provision at 52.204–6.

B. Discussion and Analysis

Two respondents submitted eight public comments on the extension of the previously approved information collection. The analysis of the public comments is summarized as follows:

Comment: The respondent called on the Administration to replace the system it now uses to track bidders on federal contracts with a more open, efficient, and nonproprietary system, the Global Legal Entity Identifier (LEI). The respondent also called on the Administration to require contract bidders to identify the real people who own or control them—the beneficial owners.

Response: The respondent's comments are outside the scope of this information collection.

Comment: The respondent urged the Administration to make public the beneficial owners of bidding firms. The Administration can do this without Congressional action, and it would be a major step toward making the procurement process more fair.

Response: The respondent's comments are outside the scope of this information collection.

Comment: The respondent stated that the U.S. government had the right to know who's bidding on federal contracts. Contracting officers need to know who is bidding to safeguard the use of taxpayer dollars. Legitimate businesses need to know who is bidding if they're to complete for contracts fairly.

Response: The respondent's comments are outside the scope of this information collection.

Comment: The respondent called on the Administration to encourage Congress to pass the Incorporation Transparency and Law Enforcement Act (ITLEAA), legislation that would require the collection of the beneficial owners of the companies incorporated in all 50 states and for the information to remain updated.

Response: The respondent's comments are outside the scope of this information collection.

Comment: The respondent stated that requiring U.S. businesses to disclose beneficial owners will neither burden them, nor undermine their ability to compete globally. In fact, disclosing beneficial owners will create more competitive markets.

Response: The respondent's comments are outside the scope of this information collection.

Comment: The respondent commented that the U.S. government should meaningfully engage civil society in a transparent process when exploring alternatives to existing entity identifiers.

Response: The respondent's comments are outside the scope of this information collection.

Comment: The respondent commented that the U.S. government should move to a non-proprietary identifier such as the Global Legal Entity Identifier (LEI) or a similar, open system that provides visibility spanning the entire hierarchy of entity ownership and includes information on the real people who own or control them (often called "beneficial owners").

Response: The respondent's comments are outside the scope of this information collection.

Comment: The respondent commented that bidders for Federal Contracts and grants should be required to disclose information on their beneficial owners.

Response: The respondent's comments are outside the scope of this information collection.

C. Annual Reporting Burden

Respondents: 22,070.

Responses Per Respondent: 3.

Annual Responses: 66,210.

Hours per Response: .1666.

Total Burden Hours: 11,031.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Frequency: On occasion.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control Number 9000–0145, Use of Data Universal Numbering System (DUNS) as Primary Contractor Identification, in all correspondence.

Dated: April 20, 2016.

Lorin S. Curit,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2016–09549 Filed 4–25–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–16ACN; Docket No. CDC–2016–0038]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on Workplace Health In America, a nationally representative survey of employer-based workplace health programs to describe the current state of U.S. workplace health promotion and protection programs and practices in employers of all sizes, industries and regions.

DATES: Written comments must be received on or before June 27, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0038 by any of the following methods: Federal eRulemaking Portal: Regulation.gov. Follow the instructions for submitting comments. Mail: Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to Regulations.gov, including any personal information provided. For access to the docket to read background documents or comments received, go to Regulations.gov.

Please note: *All public comment should be submitted through the Federal eRulemaking portal* (Regulations.gov) *or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

CDC Workplace Health Promotion Resource Center—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The United States faces an unparalleled epidemic of poor health, driven largely by chronic diseases and conditions. A large body of literature shows that poor health, preceded by high levels of modifiable risk factors, is directly correlated with higher health care costs. Chronic conditions affect the workplace through health care costs, employee absences, safety claims, and presenteeism (*i.e.*, decrements in job performance due to health problems).

Workplaces are becoming important settings for health improvement and risk reduction. By improving the work health environment and helping workers achieve long-term behavior change, employers can diminish employees' risks for illnesses, enhance their quality of life, improve morale, eliminate unnecessary health care spending, minimize absences from work, reduce accidents, and increase productivity. Furthermore, having a healthy and productive workforce within a supportive work environment can foster greater loyalty among workers, a more committed workforce, and reduced turnover rates.

Despite their interest in improving the health and well-being of American workers, public and private employers often lack the know-how to do so effectively. A need exists for a trusted resource center housed in a virtual informational clearinghouse (IC) where employers and other stakeholders can access credible research (including best and promising practices), tools and resources, and technical assistance.

CDC plans to conduct information collection needed to design and implement a new CDC Workplace Health Promotion Resource Center (Resource Center), where relevant resources will be vetted, catalogued, compiled, and made publicly available to employers and other key stakeholders. Through the Resource Center, CDC will also provide technical assistance (TA) to employers, with the ultimate aim of improving population health, reducing health care utilization, and improving the productivity of employees. These activities are consistent with CDC's role as the primary Federal agency for protecting health and promoting quality of life through the prevention and control of disease, injury, and disability. The CDC Workplace Health Promotion Resource Center is authorized by the Public Health Service Act and funded through the Prevention and Public Health Fund of the Patient Protection and Affordable Care Act (ACA).

Resource Center development and information collection will be conducted in two phases over a three-year period. In Phase 1 (project years 1 and 2), CDC will conduct formative research to understand the needs and preferences of the target audience. In Phase 2 (project years 2 and 3), CDC will build the Resource Center and IC, provide technical assistance, and assess customer satisfaction.

During Phase 1, CDC will conduct telephone interviews with 50 individuals who represent key Resource Center audiences: Employers (N=10), business groups (N=10), vendors and consultants (N=12), public health organizations (N=4), journalists (N=4), and researchers (N=10). Each tailored interview will be 45–60 minutes in length. Additional information will be collected through an online Needs and Interests Market Survey involving 800 respondents. Findings will be used to tailor the contents, technical support and dissemination practices of the Resource Center to the needs and interests of the target audiences.

During Phase 2, Resource Center products will be launched and CDC will collect brief, online customer satisfaction surveys from approximately 850 users. CDC will also pilot test and evaluate a direct technical assistance component of the Resource Center with approximately 5 selected states using two online surveys: a TA feedback survey and TA pilot assessment. The TA feedback survey will be offered to up to 100 stakeholders after each TA encounter and will take approximately 5 minutes. The TA pilot assessment will be provided at the conclusion of the TA pilot to up to 100 stakeholders and will take approximately 20 minutes. Findings will be used to improve workplace health programs and the offerings of the Resource Center.

OMB approval is requested for three years. Participation is voluntary and there are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Employers	Needs and Interests Interview Guide for Employers.	3	1	1	3
Business Groups, Vendors, Consultants, and Public Health Organizations.	Needs and Interests Interview Guide for Business Groups, Vendors, Consultants, and Public Health Organizations.	9	1	1	9
Journalists	Needs and Interests Interview Guide for Journalists.	1	1	45/60	1
Researchers	Needs and Interests Interview Guide for the Research Community.	3	1	45/60	2
Key Stakeholders and Users of the Resource Center (All Groups).	Stakeholder Needs and Interests Market Survey.	267	1	20/60	89
	Consumer Satisfaction Survey	283	1	2/60	9
Technical Assistance (TA) Participants	TA Feedback Survey	33	5	5/60	14
	TA Pilot Assessment	33	1	20/60	11
Total					138

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–09638 Filed 4–25–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-16–0199; Docket No. CDC–2016–0039]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on an extension request for the information collection entitled *Application for Permit to Import Biological Agents and Vectors of Human Disease into the United States* and *Application for Permit to Import or Transport Live Bats (42 CFR 71.54).*

DATES: Written comments must be received on or before June 27, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0039 by any of the following methods:

- *Federal eRulemaking Portal:* Regulation.gov. Follow the instructions for submitting comments.
- Mail: Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to Regulations.gov, including any personal information provided. For access to the docket to read background documents or comments received, go to Regulations.gov.

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Application for Permit to Import Biological Agents and Vectors of Human Disease into the United States and Application for Permit to Import or Transport Live Bats (42 CFR 71.54) (OMB Control No. 0920–0199, exp. 01/31/2017)—Extension—Office of Public Health Preparedness and Response (OPHPR), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 361 of the Public Health Service Act (42 U.S.C. 264), as amended, authorizes the Secretary of Health and Human Services to make and enforce such regulations as are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. Part 71 of Title 42, Code of Federal Regulations (Foreign Quarantine) sets forth provisions to prevent the introduction, transmission, and spread of communicable disease from foreign countries into the United States. Subpart F—Importations—contains provisions for the importation of infectious biological agents, infectious substances, and vectors (42 CFR 71.54); requiring persons that import these materials to obtain a permit issued by the CDC.

CDC requests Office of Management and Budget approval to collect information for three years using the Application for Permit to Import Infectious Biological Agents into the United States and the Application for a Permit to Import or Transport Live Bats.

The Application for Permit to Import Biological Agents, Infectious Substances and Vectors of Human Disease into the United States form is used by laboratory facilities, such as those operated by government agencies, universities, and research institutions to request a permit for the importation of biological agents, infectious substances, or vectors of human disease. This form currently requests applicant and sender contact information; description of material for importation; facility isolation and containment information; and personnel qualifications. CDC plans to make no changes to this application.

The Application for Permit to Import or Transport Live Bats form is used by laboratory facilities such as those operated by government agencies, universities, research institutions, and for educational, exhibition, or scientific purposes to request a permit for the importation, and any subsequent distribution after importation, of live bats. This form currently requests the applicant and sender contact information; a description and intended use of bats to be imported; and facility isolation and containment information. CDC plans to make no changes to this application.

Estimates of burden for the survey are based on information obtained from the CDC import permit database on the number of permits issued on annual basis since 2010. The total estimated burden for the one-time data collection is 545 hours.

There are no costs to respondents except their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number responses per respondent	Average burden per response (in hours)	Total burden hours
Applicants Requesting to Import Biological Agents, Infectious Substances and Vectors.	Application for Permit to Import Biological Agents, Infectious Substances and Vectors of Human Disease into the United States.	1,625	1	20/60	542
Applicants Requesting to Import Live Bats.	Application for a Permit to Import Live Bats.	10	1	20/60	3
Total					545

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–09657 Filed 4–25–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Child Care Development Fund Plan for Tribes for FFY 2017–2019 (ACF–118–A).

OMB No.: 0970–0198.

Description: The Child Care and Development Fund (CCDF) Plan (the Plan) for Tribes is required from each CCDF Lead Agency in accordance with Section 658E of the Child Care and Development Block Grant (CCDBG) Act, as amended, by Public Law 113–186 and U.S.C. 9858. The Plan provides ACF and the public with a description of, and assurances about, the Tribes' child care program.

The FY 2017–2019 CCDF Plan Preprint for Tribal grantees is being published in the **Federal Register** for a 30-day Public Comment Period to provide an opportunity for the public to submit comments to the Office of Management and Budget (OMB). The first 60-day comment period on the Tribal Preprint closed on March 19, 2016. The Office of Child Care (OCC) has given thoughtful consideration to those comments received during the 60-day Public Comment Period. The Plan has been revised to provide additional guidance and clarification throughout the document to improve the quality of the information requested. Additional revisions were also made to identify those questions related to the CCDBG Act of 2014 that were added for "informational purposes only". A red delta sign has been inserted to specifically identify those questions related to the new law. The CCDBG Act of 2014, signed into law in November of 2014 made significant changes to the CCDF program. However, the law did not explicitly indicate the extent to which many of the new requirements apply to Tribes. Questions related to the CCDBG Act of 2014 will provide ACF with baseline information on Tribal practices and technical assistance needs.

ACF extended the current Tribal Plan for one year, which means that Tribes will submit new 3-year Plans for FY 2017–2019 on July 1, 2016, with an effective date of October 1, 2016. This additional time allowed the Office of Child Care to consult with Tribal Leaders and their designated representatives to solicit input on how the new requirements of the CCDBG Act of 2014 might apply to Tribal child care programs. HHS will publish a Final Rule to determine the extent to which the new law applies to Tribes. Pending the issuance of new regulations and guidance, Tribes are subject to the prior law and regulations.

Respondents: Tribal CCDF Lead Agencies (257).

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–118–A	257	0.50	120	15,420

Estimated Total Annual Burden Hours: 15,420.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201. Attention Reports Clearance Officer. All requests should be identified by the title of the information collection. *Email address: infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Email: OIRA_SUBMISSION@OMB.EOP.GOV, Attn:* Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2016–09618 Filed 4–25–16; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: State Access and Visitation Grant Application.

OMB No.: 0970—NEW.

Description

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) created the "Grants to States for Access and Visitation" program (AV grant program). Funding for the program began in FY 1997 with a capped, annual entitlement of $10 million. The statutory goal of the program is to provide funds to states that will enable them to provide services for the purpose of increasing noncustodial parent (NCP) access to and visitation with their children. State governors decide which state entity will be responsible for implementing the AV grant program and the state determines who will be served, what services will be provided, and whether the services will be statewide or in local jurisdictions. The statute specifies certain activities which may be funded, including: voluntary and mandatory mediation, counseling, education, the development of parenting plans, supervised visitation, and the development of guidelines for visitation and alternative custody arrangements. Even though OCSE manages this program, the funding for the AV grant is separate from funding for federal and state administration of the Child Support program.

Section 469B(e)(3) of the Social Security Act (Pub. L. 104–193) requires that each state receiving an Access and Visitation (AV) grant award monitor, evaluate and report on such programs in accordance with regulations (45 CFR part 303). The AV Grant Program Terms and Conditions Addendum references administration of the grant program in accordance with an approved state application. Additionally, the Catalog of Federal Domestic Assistance, states that there is an application requirement for Grants to States for Access and Visitation Programs (93.597). The application process will assist OCSE in complying with this requirement and will reflect a greater emphasis on program efficiency, coordination of services, and increased attention to family safety.

This new, modified application reflects a greater emphasis on program efficiency, coordination of services, and increased attention to family safety. This application will cover three fiscal years. The applications will include information on how grantees plan to: spend grant funds, monitor service delivery, and implement safety protocols to ensure client and staff safety. OCSE will review the applications to ensure compliance with federal regulation and provide enhanced targeted technical assistance. The application will also assist states in strategic planning of services and knowledge sharing.

OCSE will review the applications to ensure that planned services meet the requirements laid out in Section 469B(e)(3) of the Social Security Act (Pub. L. 104–193). This review will include monitoring of program compliance and the safe delivery of services. In addition to monitoring, the report will also assist in OCSE's ability to provide technical assistance to states that would like assistance.

Respondents: Recipients of the Access & Visitation Grant (54 states and territories).

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Fillable word document	54	1	10	540

Estimated Total Annual Burden Hours: 540.

Additional Information:

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201. Attention Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2016–09599 Filed 4–25–16; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council for Nursing Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Nursing Research.

Date: May 24–25, 2016.

Open: May 24, 2016, 1:00 p.m. to 5:15 p.m.

Agenda: Discussion of Program Policies and Issues.

Place: National Institutes of Health, Building 31, C Wing, Room 6, 6th Floor, 31 Center Drive, Bethesda, MD 20892.

Closed: May 25, 2016, 9:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, C Wing, Room 6, 6th Floor, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Ann R. Knebel, DNSC, RN, FAAN, Deputy Director, National Institute of Nursing Research, National Institutes of Health, 31 Center Drive, Building 31, Room 5B05, Bethesda, MD 20892, 301–496–8230, *knebelar@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit. Information is also available on the Institute's/Center's home page: *http://www.ninr.nih.gov/aboutninr/nacnr#.VxaCIE0UWpo,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: April 20, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–09585 Filed 4–25–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Dental and Craniofacial Research Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Dental and Craniofacial Research Council.

Date: May 24, 2016.

Open: 8:30 a.m. to 12:10 p.m.

Agenda: Report to the Director, NIDCR.

Place: National Institutes of Health, Building 31, 6th Floor, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Closed: 1:30 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 6th Floor, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Delores M. Robinson, National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Blvd., Bethesda, MD 20892–487, 301–594–4890, *robinsondel@nidcr.nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nidcr.nih.gov/about,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: April 20, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–09584 Filed 4–25–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Camin Cargo Control, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Camin Cargo Control, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Camin Cargo Control, Inc., has been approved to gauge and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of August 6, 2015.

DATES: *Effective Dates:* The accreditation and approval of Camin Cargo Control, Inc., as commercial gauger and laboratory became effective on August 6, 2015. The next triennial inspection date will be scheduled for August 2018.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Camin Cargo Control, Inc., 218 Centaurus St., Corpus Christi, TX 78405, has been approved to gauge and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Camin Cargo Control, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API chapters	Title
3	Tank gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Maritime Measurements.

Camin Cargo Control, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	ASTM D–287	Standard test method for API Gravity of crude petroleum products and petroleum products (Hydrometer Method).
27–02	ASTM D–1298	Standard Test Method for specific gravity by Hydrometer method.
27–03	ASTM D–4006	Standard test method for water in crude oil by distillation.
27–04	ASTM D–95	Standard test method for water in petroleum products and bituminous materials by distillation.
27–06	ASTM D–473	Standard test method for sediment in crude oils and fuel oils by the extraction method.
27–07	ASTM D–4807	Water and Sediment in crude oil by distillation.
27–08	ASTM D–86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	ASTM D–445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27–13	ASTM D–4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27–48	ASTM D–4052	Standard test method for density and relative density of liquids by digital density meter.
27–54	ASTM D–4007	Standard Test Method for Sediment & Water of crude oils.

CBPL No.	ASTM	Title
27–57	ASTM D–7039	Standard Test Method for Sulfur content by monochromatic wavelength dispersive X-ray.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for the current CBP Approved Gaugers and Accredited Laboratories List.

http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories

Dated: April 15, 2016.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2016–09632 Filed 4–25–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of Trust Control International as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of Trust Control International as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Trust Control International has been approved to gauge petroleum and petroleum products for customs purposes for the next three years as of December 2, 2015.

DATES: *Effective Dates:* The approval of Trust Control International as commercial gauger became effective on December 2, 2015. The next triennial inspection date will be scheduled for December 2018.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that Trust Control International, 11811 East Freeway, Suite 130, Atrium 10 Tower, Houston, TX 77029, has been approved to gauge petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Trust Control International is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API chapters	Title
3	Tank gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: April 15, 2016.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2016–09633 Filed 4–25–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2016–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov*; or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: April 11, 2016.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Arkansas: Benton (FEMA Docket No.: B–1555).	City of Rogers 15–06–2115P).	The Honorable Greg Hines, Mayor, City of Rogers, 301 West Chestnut Street, Rogers, AR 72756.	Planning Department, 301 West Chestnut Street, Rogers, AR 72756.	Mar. 9, 2016	050013
Colorado:					
Adams FEMA Docket No.: B–1555).	City of Commerce City 15–08–0897P).	The Honorable Sean Ford, Mayor, City of Commerce City, 7887 East 60th Avenue, Commerce City, CO 80022.	City Hall, 7887 East 60th Avenue, Commerce City, CO 80022.	Mar. 16, 2016	080006
Douglas FEMA Docket No.: B–1555).	Town of Castle Rock 16–08–0036P).	The Honorable Paul Donahue, Mayor, Town of Castle Rock, 100 North Wilcox Street, Castle Rock, CO 80104.	Utilities Department, 175 Kellogg Court, Castle Rock, CO 80109.	Mar. 18, 2016	080050
Douglas FEMA Docket No.: B–1555).	Unincorporated areas of Douglas County 16–08–0036P).	The Honorable Jill Repella, Chair, Douglas County Board of Commissioners, 100 3rd Street, Castle Rock, CO 80104.	Douglas County Public Works Department, 100 3rd Street, Castle Rock, CO 80104.	Mar. 18, 2016	080049
El Paso (FEMA Docket No.: B–1555).	City of Colorado Springs 15–08–0401P).	The Honorable John Suthers, Mayor, City of Colorado Springs, 30 South Nevada Avenue, Suite 601, Colorado Springs, CO 80901.	City Hall, 30 South Nevada Avenue, Colorado Springs, CO 80901.	Mar. 7, 2016	080060
Jefferson FEMA Docket No.: B–1555).	City of Lakewood 15–08–1099P).	The Honorable Bob Murphy, Mayor, City of Lakewood, Civic Center South, 480 South Allison Parkway, Lakewood, CO 80226.	Public Works Department, Civic Center North, 480 South Allison Parkway, Lakewood, CO 80226.	Mar. 18, 2016	085075
Florida:					
Alachua FEMA Docket No.: B–1555).	City of Gainesville 15–04–1786P).	The Honorable Ed Braddy, Mayor, City of Gainesville, P.O. Box 490, Station 19, Gainesville, FL 32627.	Public Works Department, 405 Northwest 39th Avenue, Gainesville, FL 32601.	Mar. 7, 2016	125107
Broward FEMA Docket No.: B–1555).	City of Pompano Beach 15–04–7602P).	The Honorable Lamar Fisher, Mayor, City of Pompano Beach, 100 West Atlantic Boulevard, Pompano Beach, FL 33060.	Building Department, 100 West Atlantic Boulevard, Pompano Beach, FL 33060.	Mar. 9, 2016	120055
Lee FEMA Docket No.: B–1600).	Unincorporated areas of Lee County 15–04–5461P).	The Honorable Brian Hamman, Chairman, Lee County Board of Commissioners, District 4, P.O. Box 398, Fort Myers, FL 33902.	Lee County Planning and Zoning Department, 1500 Monroe Street, Fort Myers, FL 33901.	Dec. 30, 2015	125124
Manatee FEMA Docket No.: B–1555).	Town of Longboat Key 15–04–6557P).	The Honorable Jack Duncan, Mayor, Town of Longboat Key, 501 Bay Isles Road, Longboat Key, FL 34228.	Town Hall, 501 Bay Isles Road, Longboat Key, FL 34228.	Mar. 2, 2016	125126
Monroe FEMA Docket No.: B–1555).	City of Marathon 15–04–9118P).	The Honorable Chris Bull, Mayor, City of Marathon, 9805 Overseas Highway, Marathon, FL 33050.	Planning Department, 9805 Overseas Highway, Marathon, FL 33050.	Mar. 3, 2016	120681
Monroe FEMA Docket No.: B–1555).	Unincorporated areas of Monroe County 15–04–9119P).	The Honorable Heather Carruthers, Mayor, Monroe County Board of Commissioners, 530 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Mar. 3, 2016	125129
Monroe FEMA Docket No.: B–1600).	Unincorporated areas of Monroe County 15–04–9458P).	The Honorable Heather Carruthers, Mayor, Monroe County Board of Commissioners, 530 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Mar. 16, 2016	125129
Orange FEMA Docket No.: B–1555).	City of Orlando 15–04–7419P).	The Honorable Buddy W. Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32802.	Orange County Stormwater Management Division, 4200 South John Young Parkway, Orlando, FL 32839.	Mar. 7, 2016	120186
Orange FEMA Docket No.: B–1555).	Unincorporated areas of Orange County 15–04–7419P).	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Stormwater Management Division, 4200 South John Young Parkway, Orlando, FL 32839.	Mar. 7, 2016	120179
St. Johns FEMA Docket No.: B–1555).	Unincorporated areas of St. Johns County 15–04–7215P).	The Honorable Rachael L. Bennett, Chair, St. Johns County Board of Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Transportation Development Division, 4040 Lewis Speedway, St. Augustine, FL 32084.	Mar. 8, 2016	125147

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Georgia: Barrow FEMA Docket No.: B–1555).	Unincorporated areas of Barrow County 15–04–9030P).	The Honorable Pat Graham, Chairman, Barrow County Board of Commissioners, 30 North Broad Street, Winder, GA 30680.	Barrow County Geographic Information System Division, 233 East Broad Street, Winder, GA 30680.	Mar. 14, 2016	130497
Kentucky: Fayette FEMA Docket No.: B–1555).	Lexington-Fayette Urban County Government 15–04–0907P).	The Honorable Jim Gray, Mayor, Lexington-Fayette Urban County Government, 200 East Main Street, Lexington, KY 40507.	Engineering Division, 101 East Vine Street, 4th Floor, Lexington, KY 40507.	Mar. 3, 2016	210067
Maryland:					
Carroll FEMA Docket No.: B–1555).	Town of Mount Airy 15–03–2575P).	The Honorable Patrick T. Rockinberg, Mayor, Town of Mount Airy, P.O. Box 50, Mount Airy, MD 21771.	Town Hall, 110 South Main Street, Mount Airy, MD 21771.	Mar. 11, 2016	240200
Carroll FEMA Docket No.: B–1555).	Town of Sykesville 15–03–2575P).	The Honorable Ian Shaw, Mayor, Town of Sykesville, 7547 Main Street, Sykesville, MD 21784.	Town Hall, 7547 Main Street, Sykesville, MD 21784.	Mar. 11, 2016	240016
Carroll FEMA Docket No.: B–1555).	Unincorporated areas of Carroll County 15–03–2575P).	The Honorable J. Douglas Howard, President, Carroll County Board of Commissioners, 225 North Center Street, Westminster, MD 21157.	Carroll County Office Building, 225 North Center Street, Westminster, MD 21157.	Mar. 11, 2016	240015
North Carolina:					
Forsyth FEMA Docket No.: B–1555).	Village of Clemmons 15–04–7692P).	The Honorable Nickolas Nelson Mayor, Village of Clemmons, 3715 Clemmons Road, Clemmons, NC 27012.	Village Hall, 3715 Clemmons Road, Clemmons, NC 27012.	Mar. 18, 2016	370531
Forsyth FEMA Docket No.: B–1555).	City of Winston-Salem 15–04–7692P).	The Honorable Allen Joines, Mayor, City of Winston-Salem, P.O. Box 2511, Winston-Salem, NC 27102.	Inspections Department, 100 East 1st Street, Suite 328, Winston-Salem, NC 27101.	Mar. 18, 2016	375360
Forsyth FEMA Docket No.: B–1555).	Unincorporated areas of Forsyth County 15–04–7692P).	The Honorable David R. Plyler, Chairman, Forsyth County Board of Commissioners, 201 North Chestnut Street, Winston-Salem, NC 27101.	Forsyth County Planning Board Office, 100 East 1st Street, Winston-Salem, NC 27101.	Mar. 18, 2016	375349
Macon FEMA Docket No.: B–1600).	Town of Highlands 15–04–7513P).	The Honorable Patrick Taylor, Mayor, Town of Highlands, P.O. Box 460, Highlands, NC 28741.	Town Hall, 210 North 4th Street, Highlands, NC 28741.	Mar. 11, 2016	370574
Union FEMA Docket No.: B–1600).	Town of Waxhaw 15–04–4099P).	The Honorable Stephen E. Maher, Mayor, Town of Waxhaw, P.O. Box 6, Waxhaw, NC 28173.	Town Hall, 1150 North Broome Street, Waxhaw, NC 28173.	Mar. 10, 2016	370473
Union FEMA Docket No.: B–1600).	Unincorporated areas of Union County 15–04–4099P).	The Honorable Stony Rushing, Chairman, Union County Board of Commissioners, 500 North Main Street, Room 921, Monroe, NC 28112.	Union County Office of Growth Management,, Planning Division, 500 North Main Street, Monroe, NC 28112.	Mar. 10, 2016	370234
Wake FEMA Docket No.: B–1549).	Town of Fuquay-Varina 15–04–2204P).	The Honorable John Byrne, Mayor, Town of Fuquay-Varina, 401 Old Honeycutt Road, Fuquay-Varina, NC 27256.	Engineering Department, 401 Old Honeycutt Road, Fuquay-Varina, NC 27256.	Dec. 18, 2015	370239
Wake FEMA Docket No.: B–1549).	Unincorporated areas of Wake County 15–04–2204P).	The Honorable James West, Chairman, Wake County Board of Commissioners, P.O. Box 550, Raleigh, NC 27602.	Wake County Public Works Department, 222 Hargett Street, Raleigh, NC 27601.	Dec. 18, 2015	370368
North Dakota:					
Dunn FEMA Docket No.: B–1549).	City of Killdeer 15–08–0619P).	The Honorable Chuck Muscha, President, City of Killdeer Council, P.O. Box 270, Killdeer, ND 58640.	Planning and Zoning Department, 165 Railroad Street, Killdeer, ND 58640.	Mar. 2, 2016	380030
Dunn FEMA Docket No.: B–1549).	Unincorporated areas of Dunn County 15–08–0619P).	The Honorable Reinhard Hauck, Chairman, Dunn County Board of Commissioners, 205 Owens Street, Manning, ND 58642.	Dunn County Planning and Zoning Department, 205 Owens Street, Manning, ND 58642.	Mar. 2, 2016	380026
Pennsylvania: Lycoming FEMA Docket No.: B–1555).	Borough of South Williamsport 15–03–2159P).	The Honorable David J. Lechniak, Mayor, Borough of South Williamsport, 329 West Southern Avenue, South Williamsport, PA 17702.	Borough Hall, 329 West Southern Avenue, South Williamsport, PA 17702.	Mar. 11, 2016	420658
South Carolina:					
Charleston FEMA Docket No.: B–1555).	City of Folly Beach 15–04–5698P).	The Honorable Tim Goodwin, Mayor, City of Folly Beach, 21 Center Street, 2nd Floor, Folly Beach, SC 29439.	Building Services and Facilities Management Department, 21 Center Street, Folly Beach, SC 29439.	Mar. 3, 2016	455415
Charleston FEMA Docket No.: B–1555).	Town of Mount Pleasant 15–04–9379P).	The Honorable Linda Page, Mayor, Town of Mount Pleasant, 100 Ann Edwards Lane, Mount Pleasant, SC 29464.	Planning and Development Department, 100 Ann Edwards Lane, Mount Pleasant, SC 29464.	Mar. 18, 2016	455417
Charleston FEMA Docket No.: B–1555).	Unincorporated areas of Charleston County 15–04–5698P).	The Honorable J. Elliot Summey, Chairman, Charleston County Board of Commissioners, District 3, 4045 Bridgeview Drive, Suite B254, North Charleston, SC 29405.	Charleston County Building Inspection Services Department, 4045 Bridge View Drive, Suite A–113, North Charleston, SC 29405.	Mar. 3, 2016	455413
South Dakota: Lawrence FEMA Docket No.: B–1555).	City of Spearfish 15–08–1218P).	The Honorable Dana Boke, Mayor, City of Spearfish, 625 5th Street, Spearfish, SD 57783.	City Hall, 625 5th Street, Spearfish, SD 57783.	Mar. 2, 2016	460046
Tennessee: Maury FEMA Docket No.: B–1555).	City of Spring Hill 15–04–6306P).	The Honorable Rick Graham, Mayor, City of Spring Hill, 199 Town Center Parkway, Spring Hill, TN 37174.	Building Codes and Inspection Department, 199 Town Center Parkway, Spring Hill, TN 37174.	Mar. 7, 2016	470278
Texas:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Bexar FEMA Docket No.: B–1555).	City of San Antonio 15–06–1357P).	The Honorable Ivy R. Taylor, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capital Improvements Department, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	Mar. 9, 2016	480045
Bexar FEMA Docket No.: B–1555).	Unincorporated areas of Bexar County 15–06–1355P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	Mar. 9, 2016	480035
Bexar FEMA Docket No.: B–1555).	Unincorporated areas of Bexar County 15–06–1357P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	Mar. 9, 2016	480035
Brazoria and Harris FEMA Docket No.: B–1555).	City of Pearland 15–06–2038P).	The Honorable Tom Reid, Mayor, City of Pearland, 3519 Liberty Drive, Pearland, TX 77581.	Engineering Division, 3519 Liberty Drive, Pearland, TX 77581.	Mar. 18, 2016	480077
El Paso FEMA Docket No.: B–1555).	Unincorporated areas of El Paso County 15–06–0888P).	The Honorable Veronica Escobar, El Paso County Judge, 500 East San Antonio Street, Suite 301, El Paso, TX 79901.	El Paso County Administrative Offices, 800 East Overland, Suite 407, El Paso, TX 79901.	Mar. 7, 2016	480212
Virginia:					
Fairfax FEMA Docket No.: B–1555).	Unincorporated areas of Fairfax County 15–03–1477P).	The Honorable Edward L. Long, Jr., Fairfax County Executive, 12000 Government Center Parkway, Fairfax, VA 22035.	Fairfax County Planning and Zoning Department, 12000 Government Center Parkway, Fairfax, VA 22035.	Mar. 2, 2016	515525
Loudoun FEMA Docket No.: B–1555).	Unincorporated areas of Loudoun County 15–03–2037P).	The Honorable Scott K. York, Chairman at Large, Loudoun County Board of Supervisors, P.O. Box 7000, Mailstop #01, Leesburg, VA 20177.	Loudoun County Planning and Zoning Department, P.O. Box 7000, Mailstop #62, Leesburg, VA 20177.	Mar. 17, 2016	510090

[FR Doc. 2016–09472 Filed 4–25–16; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2016–0021]

President's National Security Telecommunications Advisory Committee

AGENCY: Department of Homeland Security.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The President's National Security Telecommunications Advisory Committee (NSTAC) will meet on Wednesday, May 11, 2016, in Santa Clara, California. The meeting will be open to the public.

DATES: The NSTAC will meet on Wednesday, May 11, 2016, from 12:00 p.m. to 5:00 p.m. Pacific Daylight Time (PDT). Please note that the meeting may close early if the committee has completed its business.

ADDRESSES: The meeting will be held at the Intel Security Executive Briefing Center, 2817 Mission College Boulevard, Santa Clara, California. Due to limited seating, requests to attend in person will be accepted and processed in the order in which they are received. The meeting's proceedings will also be available via Webcast at *http://www.live-webcast.com/events/palo-alto-networks/live/player1.htm* for those who cannot attend in person. Individuals who intend to participate in the meeting will need to register by sending an email to *NSTAC@hq.dhs.gov* by 5:00 p.m. Eastern Daylight Time (EDT) on May 6, 2016. For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, please contact *NSTAC@hq.dhs.gov* as soon as possible.

Members of the public are invited to provide comment on the issues to be considered by the committee as listed in the **SUPPLEMENTARY INFORMATION** section below. Associated briefing materials to be discussed at the meeting will be available at *www.dhs.gov/nstac* for review on May 1, 2016. Comments may be submitted at any time and must be identified by docket number DHS–2016–0021. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting written comments.
- *Email: NSTAC@hq.dhs.gov.* Include the docket number DHS–2016–0021 in the subject line of the email message.
- *Fax:* 703–235–5962, Attn: Sandy Benevides.
- *Mail:* Designated Federal Officer, Stakeholder Engagement and Cyber Infrastructure Resilience Division, National Protection and Programs Directorate, Department of Homeland Security, 245 Murray Lane, Mail Stop 0604, Arlington, VA 20598–0604.

Instructions: All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at *www.regulations.gov,* including any personal information provided.

Docket: For access to the docket and comments received by the NSTAC, go to *www.regulations.gov* and enter docket number DHS–2016–0021.

A public comment period will be held during the meeting on Wednesday, May 11, 2016, from 3:30 p.m. to 4:00 p.m. PDT. Speakers who wish to participate in the public comment period must register in advance and can do so by emailing *NSTAC@hq.dhs.gov* by no later than May 6, 2016, at 5:00 p.m. EDT. Speakers are requested to limit their comments to three minutes. Please note that the public comment period may end before the time indicated, following the last call for comments.

FOR FURTHER INFORMATION CONTACT: Ms. Helen Jackson, NSTAC Designated Federal Officer, Department of Homeland Security, (703) 235–5321 (telephone) or *helen.jackson@hq.dhs.gov* (email).

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. appendix. The NSTAC advises the President on matters related to national security and emergency preparedness (NS/EP) telecommunications policy.

Agenda: The NSTAC will meet on May 11, 2016, to receive keynote addresses on government and industry perspectives regarding emerging technologies. Meeting participants will engage in two panel discussions: One with several notable industry technology leaders on emergent information and communications technologies (ICT) in the private sector; and the other with senior government officials on the government's efforts to adopt emergent ICT in support of its NS/EP functions. Additionally, the NSTAC members will receive an update on the NSTAC Emerging Technologies Strategic Vision Subcommittee's study of emerging ICT, as well as deliberate and vote on the NSTAC Report to the President on Big Data Analytics. Lastly, the Department of Homeland Security will provide NSTAC members with an update of the implementation of the Cybersecurity Act of 2015.

Dated: April 20, 2016.

Helen Jackson,

Designated Federal Officer for the NSTAC.

[FR Doc. 2016–09668 Filed 4–25–16; 8:45 am]

BILLING CODE 9110–09–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0028]

Agency Information Collection Activities: Petition To Classify Orphan as an Immediate Relative; Application for Advance Processing of an Orphan Petition; Supplement 1, Listing of an Adult Member of the Household, Form I–600, I–600A, and Supplement 1; Extension, Without Change, of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until June 27, 2016.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0028 in the subject box, the agency name and Docket ID USCIS–2008–0020. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS–2008–0020;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Acting Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2008–0020 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Petition to Classify Orphan as an Immediate Relative; Application for Advance Processing of an Orphan Petition; Supplement 1, Listing of an Adult Member of the Household.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–600, I–600A, and Supplement 1; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The collection of this information is required to determine eligibility and suitability of U.S. adoptive parents and the eligibility of the orphan(s) they plan to adopt (or have already adopted).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–600 is 2,665 and the estimated hour burden per response is .75 hours; the estimated total number of respondents for the information collection Form I–600A is 3,576 and the estimated hour burden per response is .75 hours; estimated total number of respondents for the information collection Supplement 1 is 3,316 and the estimated hour burden per response is .25 hours. 12,873 respondents for biometrics processing at an estimated 1 hour and 10 minutes (1.17 hours) per response; 26 respondents for DNA

biometrics processing at an estimated 6 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 20,727 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $1,355,251.

Dated: April 21, 2016.

Samantha Deshommes,

Acting Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2016–09640 Filed 4–25–16; 8:45 am]

BILLING CODE 9111–17–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0054]

Agency Information Collection Activities: Notice of Naturalization Oath Ceremony, Form N–445; Extension, Without Change, of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on February 9, 2016 at 81 FR 6882, allowing for a 60-day public comment period. USCIS did not receive any comments in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until May 26, 2016. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* Comments may also be submitted via fax at (202) 395–5806 (This is not a toll-free number). All submissions received must include the agency name and the OMB Control Number 1615–0054.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Acting Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2006–0055 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Notice of Naturalization Oath Ceremony.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–445; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information furnished on Form N–445 refers to events that may have occurred since the applicant's initial interview and prior to the administration of the oath of allegiance. Several months may elapse between these dates and the information that is provided assists the officer to make and render an appropriate decision on the application. USCIS will use this information to determine if any changes to the respondent's prior statements affect the decisions the agency has made in regards to the respondent's ability to be naturalized.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N–445 is 732,000 and the estimated hour burden per response is .166 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 121,512 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0.

Dated: April 20, 2016.

Samantha Deshommes,

Acting Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2016–09636 Filed 4–25–16; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0090]

Agency Information Collection Activities: Application for Status as Temporary Resident Under Section 245A of the INA, Form I–687, I–687WS; Extension, Without Change, of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information or new collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until June 27, 2016.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0090 in the subject box, the agency name and Docket ID USCIS–2005–0029. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS–2005–0029;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Acting Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2005–0029 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Status as Temporary Resident under Section 245A of the INA.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–687, I–687WS, USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–687 is used to apply to USCIS for benefits pursuant to the terms and conditions of the *Northwest Immigrant Rights Project, et al.* v. *U.S. Citizenship and Immigration Services, et al.,CV 88–379R* (NWIRP) (a.k.a. "LEAP") settlement agreements. If approved, applicants will be granted Temporary Resident status in the United States with the opportunity to file for lawful permanent residence. The data collected on this form is used by USCIS to verify the applicant's status and determine his or her eligibility for the benefit. USCIS also collects biometric information from Form I–687 applicants to verify the applicant's identity and background information.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–687 and I–687WS is 18 and the estimated hour burden per response is 1.17 hours. The estimated total number of respondents for biometrics processing, 18, at an estimated 1 hour and 10 minutes (1.17 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 42 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $6,615.

Dated: April 20, 2016.

Samantha Deshommes,

Acting Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2016–09627 Filed 4–25–16; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5910–N–06]

60-Day Notice of Proposed Information Collection: Application for Community Compass TA and Capacity Building Program NOFA

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 27, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4186, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Kenneth Rogers, Senior CPD Specialist, Kenneth Rogers at *Kenneth.W.Rogers@hud.gov* or telephone 202–402–4396. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Application for Community Compass Technical Assistance and Capacity Building Program Notice of Funding Availability (NOFA).

OMB Approval Number: 2506–0197.

Type of Request: Extension.

Form Number: SF–424, SF424CB, SF–424CBW.

Description of the need for the information and proposed use: Application information is needed to determine competition winners, *i.e.,* the technical assistance providers best able to develop efficient and effective programs and projects that increase the supply of affordable housing units, prevent and reduce homelessness, improve data collection and reporting, and use coordinated neighborhood and community development strategies to revitalize and strengthen their communities.

Respondents (*i.e.* affected public): Profit and non-profit organizations.

Estimated Number of Respondents: 52.

Estimated Number of Responses: 52.

Frequency of Response: 1.

Average Hours per Response: 100.

Total Estimated Burdens: 5200.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Application	52	1	52	100	5,200	$0	$0
Work Plans	23	10	230	18	4,140	40	165,600
Reports	23	4	72	6	432	40	17,280
Recordkeeping	23	12	276	6	1,656	40	66,240
Total	....	....	....	....	11,248	....	249,120

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 14, 2016.

Harriet Tregoning,

Principal Deputy Assistant Secretary, For Community Planning and Development.

[FR Doc. 2016–09609 Filed 4–25–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–FR–5909–N–30]

30-Day Notice of Proposed Information Collection: Office of Lead Hazard Control and Healthy Homes Grant Programs; Data Collection and Progress Reporting

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for renewal of the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* May 26, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for renewal of the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Office of Lead Hazard Control and Healthy Homes Grant Programs Data Collection and Progress Reporting.

OMB Control Number: 2539–0008.

Type of Request: Revision to a currently approved information collection.

Form Number: HUD 96006 (electronic equivalent).

Description of the need for the information and proposed use: Collect data on the progress of grantees' programs.

Respondents: Grantees of the Office of Lead Hazard Control and Healthy Homes. The revised hour burden estimates are presented in the table below. All respondents' expenses are covered by grant funds.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total	200	Quarterly	4	10	8,000	None	None

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 18, 2016.

Anna P. Guido,

Department Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 2016–09606 Filed 4–25–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–FR–5909–N–32]

30-Day Notice of Proposed Information Collection: Validating Estimates of CPD Grantee Accrued Expenses

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for renewal of the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* May 26, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for renewal of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on February 8, 2016 at 81 FR 6535.

A. Overview of Information Collection

Title of Information Collection: Validating Estimates of CPD Grantee Accrued Expenses.

OMB Control Number: 2506-New.

Type of Request: New collection.

Form Number: None.

Description of the need for the information and proposed use: Generally Accepted Accounting Principles (GAAP) require CPD to account for expenses accrued by its grantees that have not yet been expended. CPD does not require its grantees to report accrued expenses. Accordingly, CPD has developed methodologies for estimating accrued expenses for each of its programs. HUD OIG audits our financial reports. OIG has stated that CPD must validate these estimates of accrued expenses periodically, pursuant to Federal Financial Accounting Technical Release 12 (TR12).

Respondents: Grantees.

Estimated Number of Respondents: 200.

Estimated Number of Responses: 200.

Frequency of Response: Yearly.

Average Hours per Response: 4hrs.

Total Estimated Burdens: 4hrs.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
	200	Annually	200	4	4	0.00	0.00
Total	200	Annually	200	4	4	0.00	0.00

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 19, 2016.

Anna P. Guido,

Department Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 2016–09616 Filed 4–25–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5932–N–02]

Notice of establishment of the Moving to Work Research Federal Advisory Committee

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, and Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Establishment of the Moving to Work Research Federal Advisory Committee.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, this provides notice that the Department of Housing and Urban Development (HUD) will establish the Moving to Work Research Federal Advisory Committee (Committee). The Committee will advise HUD on specific policy proposals and methods of research and evaluation for expansion of the Moving to Work (MTW) demonstration, as provided by Congress.

ADDRESSES: The Public is welcome to submit written comment to HUD by electronic mail at *MTWAdvisoryCommittee@hud.gov.* Comments must be received by *May 11, 2016.*

FOR FURTHER INFORMATION CONTACT: Office of Public and Indian Housing, U.S. Department of Housing and Urban Development, 451 7th St. SW., Washington, DC 20410, *MTWAdvisoryCommittee@hud.gov.*

SUPPLEMENTARY INFORMATION:

Background and Authority for the MTW Expansion: The Fiscal Year 2016 Appropriations Act, Section 239 (Public Law 114–113), signed by the President in December 2015, authorizes HUD to expand the MTW demonstration by an additional 100 public housing agencies (PHA) over seven years. Agencies selected as part of the MTW expansion must be high performers, meet certain site selection requirements as described below, and represent geographic diversity across the country.

The key principles for the expansion of the MTW demonstration are to: Simplify, learn, and apply. The vision for the MTW expansion is to learn from MTW interventions in order to improve the delivery of federally assisted housing and promote self-sufficiency for low-income families across the nation. In developing the framework for the MTW expansion, HUD will balance the deregulation desired by the industry with the need for a strong evaluative component. Certain MTW flexibilities will be provided to all new MTW PHAs when they are designated. Other MTW flexibilities will only be available to specific cohorts, depending on which policy will be tested and evaluated by that cohort.

In order to inform the MTW expansion, HUD published a Notice to solicit feedback on the policy proposals and methods of research and evaluation in the **Federal Register** on April 4, 2016 (81 FR 19233) and anticipates posting a summary of the comments on its Web site in Spring 2016. Today's **Federal Register** Notice announces the establishment of the Committee, as described below, and HUD plans to hold two conference calls with the Committee throughout this Summer, and will have one in-person meeting in late-Summer 2016. HUD plans to post a Notice to solicit applications for the first cohort of the MTW Expansion in the Fall of 2016. This Notice will include all of the policies to be studied throughout the MTW expansion. The initial cohort of new MTW PHAs will be announced in the Spring/Summer 2017, and additional cohorts will be added through 2020 through additional notices.

Background and Authority for the Committee: Establishment of the Committee implements a statutory requirement of Public Law 114–113. The Committee is governed by the Federal Advisory Committee Act (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees. The Committee shall advise HUD on specific policy proposals and methods of research and evaluation related to the expansion of the MTW demonstration to an additional 100 high-performing PHAs.

The Committee shall advise HUD, at the request of the Secretary, on the following: Specific policy proposals and evaluation methods for the MTW demonstration; rigorous research methodologies that will effectively measure the impact of the policy changes identified; policy changes adopted by MTW PHAs that have proven successful and can be applied more broadly to all PHAs; and statutory and/or regulatory changes necessary to implement policy changes for all PHAs. The Committee shall have no role in reviewing or selecting the MTW PHAs. Each year, the Committee shall provide a report to the HUD Secretary that describes the activities, status, and changes in composition of the Committee since the previous year. A draft of the Committee's Charter and Membership Balance Plan can be found on HUD's Web site at *www.hud.gov/mtw.*

Structure: The Committee shall consist of up to fourteen (14) members, as the Secretary will appoint. Members will be reappointed at the discretion of the Secretary. When appropriate, HUD will provide stipends to members selected as former or current residents of MTW PHAs as compensation for their time. All other members shall serve without compensation.

Membership of the Committee shall include program and research experts from HUD; a fair representation of PHAs with an MTW designation, including current and/or former residents; and independent subject matter experts in housing policy research. No person who is a federally-registered lobbyist may serve on the Committee. Members of the Committee shall be chosen to ensure balance, diversity, and a broad representation of ideas, in accordance with HUD's Membership Balance Plan for the Committee. In general, subject matter expertise in the programs operated by HUD's Office of Public and Indian Housing, and specifically the MTW Demonstration Program, is beneficial in helping the Committee accomplish its mission. Membership on the Committee is personal to the appointee. Committee members representing MTW agency Executive Directors may designate an alternate member of their MTW agency to attend in their place, should they be unable to participate in a Committee meeting.

The Committee will meet in person at least one (1) time per fiscal year and by conference call up to six (6) times as needed to render advice to HUD. Meetings shall be coordinated by a Designated Federal Officer who shall approve the agenda and chair Committee meetings.

Committee members will be required, as applicable, to provide disclosures and certifications regarding conflicts of interest and eligibility for membership prior to final appointment.

Dated: April 19, 2016.

Lourdes Castro Ramírez,

Principal Deputy Assistant Secretary for Public and Indian Housing.

Katherine M. O'Regan,

Assistant Secretary for Policy Development and Research.

[FR Doc. 2016–09754 Filed 4–25–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–31]

30-Day Notice of Proposed Information Collection: Core Performance Reporting Requirements for Competitively-Funded Grants

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* May 26, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5533. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 10, 2015 at 80 FR 54577.

A. Overview of Information Collection

Title of Information Collection: Core Performance Reporting for Competitively-Funded Grants.

OMB Control Number: 2501-New.

Type of Request: New collection.

Form Number: HUD–PRL, HUD–CIRL, and HUD–GF.

Description of the need for the information and proposed use: This request is for the clearance of data collection and reporting requirements to enable the U.S. Department of Housing and Urban Development (HUD) Office of Strategic Planning and Management (OSPM) to better assess the effectiveness of competitively-funded grants included in this information collection request (ICR). The competitively–funded grant programs included in this ICR are: Community Development Block Grant Program for Indian Tribes and Alaska Native Villages (ICDBG), Family Self-Sufficiency Program (FSS), Housing Counseling (HC), Housing Opportunities for Persons with AIDS (HOPWA), JobsPlus Program (Jobs+), Juvenile Reentry Assistance Program (JRAP), Lead-Based Paint Hazard Control (LBPHC), Lead Hazard Reduction Demonstration (LHRD), Multifamily Housing Service Coordinator Program (MFSC), Self-Help Homeownership Opportunity Program (SHOP), Supportive Services Demonstration Program (202), and Resident Opportunity and Self-Sufficiency Service Coordinators Program (ROSS).

A key component of this proposed collection is the reporting of measureable outcomes. Additionally, the standardization of data collection and reporting requirements across the Department will increase data comparability and utilization. Consolidation of de-identified data drawn from pre-existing HUD's systems and databases, as applicable, into a single repository will enhance the Department's comprehensive and comparative analysis of competitively-funded HUD programs. Data submission will be acceptable via Comma Separated Values (CSV), Extensible Markup Language (XML), and other file formats in addition to direct data entry into an online web form.

The Department has several reporting models in place for competitive grant programs, including the eLogic Model. The reporting models provide information on a wide variety of outputs and outcomes and are based on unique data definitions and outcome measures in program-specific performance and progress reports. In Federal Fiscal Year (FY) 2013, nine program offices at HUD used six systems and 15 reporting tools to collect over 700 data elements in support of varied metrics to assess the performance of competitively-funded grants. The proposed data collection and reporting requirements described in this notice are designed to replace the use of the eLogic Model and other report forms and requirements. The lack of standardized data collection and reporting requirements imposes an increased burden on grantees with multiple grant awards from HUD. The need for a comprehensive and standardized reporting approach is underscored by reviews conducted by external oversight agencies, including the Department's Office of Inspector General (OIG) and the Government Accountability Office (GAO). These oversight agencies have questioned the validity and comparability of data reported by the Department. To address these issues, the Department is using its statutory and regulatory authority to redesign and strengthen performance reporting for many of its competitive grant programs into a single comprehensive approach.

The Secretary's statutory and regulatory authority to administer HUD programs include provisions allowing for the requirement of performance reporting from grantees. This legal authority is codified at 42 U.S.C. 3535(r). The individual privacy of service recipients is of the highest priority. The reporting repository established at HUD to receive data submission from grantees will not include any personally identifying information (PII). Additionally, if the data for a grant has 25 or fewer individuals served during a FY as reported in the record-level reports, then the results for the demographic data elements for the 25 or fewer individuals will also be redacted or removed from the public-use data file and any publicly available analytical products in order to ensure the inability to identify any individual.

Eligible entities awarded grants by the Department are expected to implement the proposed recordkeeping and reporting requirements with available grant funds. It is important to note that much of the data to be reported by grantees under this ICR is already required and reported to one or more program offices at HUD. Furthermore, generally only a subset of the universe of data elements presented will be submitted as data collection and reporting requirements which are determined by the program office and include consideration of the type and level of service provided by the respective grant programs.

The reporting requirements in this proposal better organize the data already being collected, standardize outcomes and performance measures, and allow program offices at HUD to select which data elements and performance indicators are relevant for their respective programs. Documents detailing the data elements, performance indicators, and draft online data entry forms are available for review by request from Thaddeus Wincek (*thaddeus.d.wincek@hud.gov*). All information reported to HUD will be submitted electronically. Recipients or grantees may use existing management information systems provided those systems collect all of the required data elements and can be exported for submission to HUD. Recipients or grantees that sub-grant funds to other organizations will need to collect the required information from their sub-recipients or sub-grantees. Information collected and reported will be used by recipients or grantees and the Department for the following purposes:

- To provide program and performance information to recipients, general public, Congress, and other stakeholders;
- To continuously improve the quality, effectiveness, and efficiency of grant-funded programs;
- To provide management information for use by the Department in program administration and oversight, including the monitoring of grant-specific participation, services, capital investments, and outcomes; and
- To better measure and analyze performance information to identify successful practices to be replicated and prevent or correct problematic practices and improve outcomes in compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010.

The data collection and reporting requirements will be phased in over a three-year period which includes a proof of concept pilot in FY16. The Department will provide technical assistance to recipients or grantees throughout the implementation.

Respondents (*i.e.* affected public): Organizations awarded competitively-funded grants from the following HUD programs: Community Development Block Grant Program for Indian Tribes and Alaska Native Villages (ICDBG), Family Self-Sufficiency Program (FSS), Housing Counseling (HC), Housing Opportunities for Persons with AIDS (HOPWA), JobsPlus Program (Jobs+), Juvenile Reentry Assistance Program (JRAP), Lead-Based Paint Hazard Control (LBPHC), Lead Hazard Reduction Demonstration (LHRD), Multifamily Housing Service Coordinator Program (MFSC), Self-Help Homeownership Opportunity Program (SHOP), Supportive Services Demonstration Program (202), and Resident Opportunity and Self-Sufficiency Service Coordinators Program (ROSS).

ANNUAL BURDEN ESTIMATE FOR THE REQUESTED REPORTING APPROACH INITIAL YEAR OR PROOF OF CONCEPT PILOT PROJECT

Type of record	Number of respondents	Submission frequency	Hourly rate[1]	Average Number of minutes	Estimated annual burden hours	Estimated annual burden dollars
Participant Record-level (data export to HUD reporting system).	1,500 grantees[2]	1	$14.19	5 Per Record	15,375	$218,171
Participant Record-level (direct data entry).	500 grantees[2]	1	14.19	20 Per Record	20,500	290,895
Capital Investment Record-level	7 grantees[3]	1	14.19	15 Per Record	7	99
Grant Feedback	200 grantees	1	14.19	30 Per Record	100	1,419
Total	/////	/////	14.19	/////	35,982	510,584

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[1] The hourly rate of $14.19 is the average wage for office and administrative support occupations as reported in the May 2014 *Occupational Employment and Wages* produced by the U.S. Department of Labor, Bureau of Labor Statistics.

[2] There are an estimated 246,000 individuals to be served by the 2,000 grantees.

[3] There are an estimated 28 project-level records for the 7 grantees.

ANNUAL BURDEN ESTIMATE FOR THE REQUESTED REPORTING APPROACH SECOND AND SUBSEQUENT YEARS

Type of record	Number of respondents	Submission frequency	Hourly rate[1]	Average Number of minutes	Estimated annual burden hours	Estimated annual burden dollars
Participant Record-level (data export to HUD reporting system).	3,000 grantees[2]	1	$14.19	5 Per Record	30,750	$436,343
Participant Record-level (direct data entry).	1,850 grantees[2]	1	14.19	20 Per Record	75,850	1,076,312
Capital Investment Record-level	150 grantees[3]	1	14.19	15 Per Record	150	2,129
Grant Feedback	1,000 grantees	1	14.19	30 Per Record	500	7,095
Total	/////	/////	14.19	/////	107,250	1,521,879

[1] The hourly rate of $14.19 is the average wage for office and administrative support occupations as reported in the May 2014 *Occupational Employment and Wages* produced by the U.S. Department of Labor, Bureau of Labor Statistics.

[2] There are an estimated 596,550 individuals to be served by the 4,850 grantees.

[3] There are an estimated 600 project-level records for the 150 grantees.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 19, 2016.

Anna P. Guido,

Department Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 2016–09604 Filed 4–25–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5916–N–10]

60-Day Notice of Proposed Information Collection: Public Housing Agency Executive Compensation Information

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 27, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW., (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Proposal: Public Housing Agency Executive Compensation Information.

OMB Approval Number: 2577–0272.

Type of Request: Revision of previously approved collection.

Form Number: Form HUD–52725.

Description of the need for the information and proposed use: Pursuant to PIH Notice 2015–14, HUD collects information on the compensation provided by public housing agencies (PHAs) to the top management official, top financial official, and highest compensated employee, similar to the information that non-profit organizations receiving federal tax exemptions are required to report to the IRS annually. Because PHAs receive significant direct federal funds HUD has been collecting compensation information to enhance regulatory oversight by HUD, as well as state and local authorities. HUD provides the information collected to the public. The compensation data collected includes base salary, bonus, and incentive and other compensation, and the extent to which these payments are made with Section 8 and 9 appropriated funds.

Respondents: Public Housing Agencies.

Estimated Number of Respondents: Approximately 4000.

Estimated Number of Responses: Approximately 4000.

Frequency of Response: Annual.

Average Hours per Response: 30 minutes.

Total Estimated Burdens: The total burden hours is estimated to be 2000 hours annually. The total burden cost is estimated to be $45,200.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 19, 2016.

Danielle Bastarache,

Deputy Assistant Secretary, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2016–09753 Filed 4–25–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5916–N–09]

60-Day Notice of Proposed Information Collection: Enterprise Income Verification Systems; Debts Owed to Public Housing Agencies and Terminations

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 27, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW., (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: EIV System Debts Owed to PHAs and Terminations.

OMB Approval Number: 2577–0266.

Type of Request: Revision of a currently approved collection.

Form Number: 52675.

Description of the need for the information and proposed use: In accordance with 24 CFR 5.233, processing entities that administer the Public Housing, Section 8 Housing Choice Voucher, Moderate Rehabilitation programs are required to use HUD's Enterprise Income Verification (EIV) system to verify employment and income information of program participants and to reduce administrative and subsidy payment errors. The EIV system is a system of records owned by HUD, as published in the **Federal Register** on July 20, 2005 at 70 FR 41780 and updated on August 8, 2006 at 71 FR 45066.

The Department seeks to identify families who no longer participate in a HUD rental assistance program due to adverse termination of tenancy and/or assistance, and owe a debt to a Public Housing Agency (PHA). In accordance with 24 CFR 982.552 and 960.203, the PHA may deny admission to a program if the family is not suitable for tenancy for reasons such as, but not limited to: Unacceptable past performance in meeting financial obligations, history of criminal activity, eviction from Federally assisted housing in the last five years, family has committed fraud, bribery, or any other corrupt or criminal act in connection with a Federal housing program, or if a family currently owes rent or other amounts to the PHA or to another PHA in connection with a Federally assisted housing program under the U.S. Housing Act of 1937.

Within the scope of this collection of information, HUD seeks to collect from all PHAs, the following information:

1. Amount of debt owed by a former tenant to a PHA;
2. If applicable, indication of executed repayment agreement;
3. If applicable, indication of bankruptcy filing;
4. If applicable, the reason for any adverse termination of the family from a Federally assisted housing program.

This information is collected electronically from PHAs via HUD's EIV system. This information is used by HUD to create a national repository of families that owe a debt to a PHA and/or have been terminated from a federally assisted housing program. This national repository is available within the EIV system for all PHAs to access during the time of application for rental assistance. PHAs are able to access this information to determine a family's suitability for rental assistance, and avoid providing limited Federal housing assistance to families who have previously been unable to comply with HUD program requirements. If this information is not collected, the Department is at risk of paying limited Federal dollars on behalf of families who may not be eligible to receive rental housing assistance. Furthermore, if this information is not collected, the public will perceive that there are no consequences for a family's failure to comply with HUD program requirements.

Respondents: Public Housing Agencies.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
HUD–52675	3937	Monthly	47,244	0.0833 Hours or 5 minutes per family.	26,177	$21.03	$550.502

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 14, 2016.

Merrie Nichols-Dixon,

Deputy Director, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2016–09605 Filed 4–25–16; 8:45 am]

BILLING CODE 4210–67–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Air Mattress Bed Systems and Components Thereof DN 3143;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at EDIS [1], and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC [2]. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS [3]. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Select Comfort Corporation and Select Comfort SC Corporation on April 20, 2016. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain air mattress bed systems and components thereof. The complaint names as respondents American National Manufacturing Inc. of Corona, CA; Elements of Rest Inc. of Atlanta, GA; Responsive Surface Technology LLC of Atlanta, GA; and Dires LLC d/b/a Personal Comfort Bed of Orlando, FL. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. §1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section

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[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number ("Docket No. 3143") in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures[4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS[5].

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR §§ 201.10, 210.8(c)).

By order of the Commission.

Issued: April 20, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–09611 Filed 4–25–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Charleston Area Medical Center, Inc. and St. Mary's Medical Center, Inc.: Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the Southern District of West Virginia in *United States of America* v. *Charleston Area Medical Center, Inc. and St. Mary's Medical Center, Inc.*, Civil Action No. 2:16–cv–03664. On April 14, 2016, the United States filed a Complaint alleging that Charleston Area Medical Center, Inc. and St. Mary's Medical Center, Inc. unlawfully agreed to allocate territories for the marketing of competing healthcare services and unlawfully limited competition. The proposed Final Judgment, filed at the same time as the Complaint, enjoins Defendants from limiting competition in this manner and requires Defendants to institute comprehensive antitrust compliance programs to ensure that Defendants do not establish similar unlawful agreements and similar limitations on competition in the future.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's Web site at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the Southern District of West Virginia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's Web site, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Peter Mucchetti, Chief, Litigation I, Antitrust Division, Department of Justice, 450 Fifth Street NW., Suite 4100, Washington, DC 20530 (telephone: 202–307–0001).

Patricia A. Brink

Director of Civil Enforcement.

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. *CHARLESTON AREA MEDICAL CENTER, INC. and ST. MARY'S MEDICAL CENTER, INC., Defendants.*

CASE NO.: 2:16–cv–03664

JUDGE: John T. Copenhaver, Jr.

FILED: 04/14/2016

COMPLAINT

The United States of America brings this civil antitrust action to enjoin an agreement by Charleston Area Medical Center, Inc. ("CAMC") and St. Mary's Medical Center, Inc. ("St. Mary's) (collectively, "Defendants") that unlawfully allocated territories for the marketing of competing healthcare services and limited competition between the Defendants.

NATURE OF THE ACTION

1. Defendants CAMC and St. Mary's are healthcare providers that operate general acute-care hospitals in Charleston, Kanawha County, West Virginia, and Huntington, Cabell County, West Virginia, respectively. CAMC and St. Mary's compete with each other to provide healthcare services. Marketing is a key component of this competition and includes both print and outdoor advertising, such as newspaper advertisements and billboards.

2. CAMC and St. Mary's agreed to limit marketing of competing healthcare services. According to St. Mary's Director of Marketing, St. Mary's "had an agreement with CAMC that St. Mary's would not advertise on billboards or in print in Kanawha County and that CAMC would not advertise on billboards or in print in Cabell County." He also testified that "the agreement between St. Mary's and CAMC is still in place today."

3. Defendants' agreement has disrupted the competitive process and harmed patients and physicians. Among other things, the agreement has deprived patients of information they otherwise would have had when making important healthcare decisions and has denied physicians working for the Defendants the opportunity to advertise their services to potential patients.

4. Defendants' agreement is a naked restraint of trade that is *per se* unlawful under Section 1 of the Sherman Act, 15 U.S.C. 1.

JURISDICTION, VENUE, AND INTERSTATE COMMERCE

5. The United States brings this action pursuant to Section 4 of the Sherman Act, 15 U.S.C. 4, to prevent and restrain Defendants' violations of Section 1 of the Sherman Act, 15 U.S.C. 1.

6. This Court has subject matter jurisdiction over this action under Section 4 of the Sherman Act, 15 U.S.C. 4, and 28 U.S.C. 1331, 1337(a), 1345, and 1367.

7. Venue is proper in the Southern District of West Virginia, Charleston Division, under 28 U.S.C. 1391 and Section 12 of the Clayton Act, 15 U.S.C. 22. Each Defendant transacts business within the Southern District of West Virginia, and all Defendants reside in the Southern District of West Virginia.

8. Defendants engage in interstate commerce and in activities substantially affecting interstate commerce. Defendants provide healthcare services to patients for which employers, health plans, and individual patients remit payments across state lines. Defendants

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[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

also purchase supplies and equipment from out-of-state vendors that are shipped across state lines.

DEFENDANTS AND THEIR MARKETING

9. CAMC is a nonprofit West Virginia corporation headquartered in Charleston, Kanawha County, West Virginia. It operates four general acute-care hospitals (CAMC General Hospital, CAMC Memorial Hospital, CAMC Women and Children's Hospital, and CAMC Teays Valley Hospital) with a total of 908 beds and a medical staff of over 120 employed physicians.

10. St. Mary's is a nonprofit West Virginia corporation headquartered in Huntington, Cabell County, West Virginia. It operates a general acute-care hospital located in Cabell County with 393 beds and a medical staff of over 50 employed physicians. St. Mary's also serves as a teaching hospital for medical students and residents from Marshall University School of Medicine.

11. CAMC and St. Mary's compete with each other to provide hospital and physician services to patients. Hospitals compete through price, quality, and other factors to sell their services to patients, employers, and insurance companies.

12. Marketing is an important tool that hospitals use to compete for patients, and this competition can lead hospitals to invest in providing better care and a broader range of services. Hospitals use marketing to inform patients about a hospital's quality, scope of services, and the expertise of its physicians. An executive of each Defendant testified at deposition that marketing is an important strategy through which hospitals seek to increase patient volume and market share.

13. Defendants' marketing methods include print advertisements, such as newspaper advertisements, and outdoor advertisements, such as billboards.

UNLAWFUL AGREEMENT BETWEEN ST. MARY'S AND CAMC

14. Since at least 2012, CAMC and St. Mary's have agreed to limit their marketing for competing services. CAMC agreed not to place print or outdoor advertisements in Cabell County, and St. Mary's agreed not to place print or outdoor advertisements in Kanawha County. Defendants' marketing departments have monitored and enforced this agreement.

15. For example, in January 2012, a CAMC urology group asked CAMC's marketing department to advertise its physicians in *The Herald Dispatch,* a Cabell County newspaper. In response, a CAMC marketing department employee emailed the CAMC Director of Marketing, noting that CAMC does not typically advertise in *The Herald Dispatch* because of its "'gentleman's agreement'" with St. Mary's. Consistent with its agreement with St. Mary's, CAMC did not place the newspaper advertisement.

16. In May 2013, St. Mary's Director of Marketing complained to CAMC's Director of Marketing after CAMC ran a newspaper ad promoting a CAMC physicians' group in *The Herald Dispatch,* and succeeded in getting CAMC to agree to remove the advertisement. In an email from St. Mary's Director of Marketing to other St. Mary's senior executives, he wrote, "I talked with CAMC and they agreed this ad violated our agreement not to advertise in Charleston paper if they didn't advertise in Huntington paper. Their director of marketing Says she pulled the ad but was concerned it might still run again one more time this Sunday. I can't call the HD [*Herald Dispatch*] and make sure because they could challenge this type of handshake agreement That [sic] prevents them from getting advertising dollars from a different advertiser. We'll see and I'll follow up from there but after Sunday I am confident we won't see CAMC again in HD." Consistent with its agreement with St. Mary's, and as described by St. Mary's Director of Marketing, CAMC asked the *Herald Dispatch* to remove the advertisement.

17. In June 2014, when a CAMC-owned physicians' group requested marketing in Cabell County, a CAMC marketing department employee responded by telling the group's representative that CAMC does not market specialist physicians in Cabell County and St. Mary's does not market specialists in Kanawha County. Consistent with its agreement with St. Mary's, CAMC refused to market that physicians' group in Cabell County.

18. In August 2014, when another CAMC-owned physicians' group requested billboard advertising in Cabell County, a CAMC marketing representative wrote to CAMC's Director of Marketing, "They had asked for print and billboard placement in Huntington. I explained our informal agreement. They understood." CAMC's Director of Marketing replied, "Just watch the county line my friend." Consistent with its agreement with St. Mary's, CAMC did not place print or billboard advertising for the physician practice in Cabell County.

19. The agreement between CAMC and St. Mary's has eliminated a significant form of competition to attract patients by depriving patients in Kanawha and Cabell Counties of information regarding their healthcare-provider choices and physicians in those counties the opportunity to advertise their services to potential patients.

NO PROCOMPETITIVE JUSTIFICATIONS

20. The Defendants' anticompetitive agreement is not reasonably necessary to further any procompetitive purpose.

VIOLATION ALLEGED

Violation of Section 1 of the Sherman Act

21. The United States incorporates paragraphs 1 through 20.

22. CAMC and St. Mary's compete to provide healthcare services. Defendants' agreement is facially anticompetitive because it limits competition between the Defendants by allocating territories for the marketing of competing healthcare services. As a result, the agreement eliminates a significant form of competition to attract patients.

23. The agreement constitutes an unreasonable restraint of trade that is *per se* illegal under Section 1 of the Sherman Act, 15 U.S.C. 1. No elaborate analysis is required to demonstrate the anticompetitive effect of this agreement.

REQUESTED RELIEF

The United States requests that the Court:

(A) judge that Defendants' agreement limiting competition constitutes an illegal restraint of interstate trade in violation of Section 1 of the Sherman Act, 15 U.S.C. 1;

(B) enjoin Defendants and their members, officers, agents, and employees from continuing or renewing in any manner the conduct alleged herein or from engaging in any other conduct, agreement, or other arrangement having the same effect as the alleged violations;

(C) enjoin each Defendant and its members, officers, agents, and employees from communicating with any other Defendant about any Defendant's marketing, unless such communication: is related to the legitimate joint provision of services; is part of normal due diligence relating to a merger, acquisition, joint venture, investment, or divestiture; or is related to claims or statements made in a Defendant's Marketing that the other Defendant believes are false or misleading;

(D) require Defendants to institute a comprehensive antitrust compliance program to ensure that Defendants do not enter into or attempt to enter into any similar agreements and that Defendants' members, officers, agents, and employees are fully informed of the application of the antitrust laws to the Defendants' businesses; and

(E) award Plaintiff its costs in this action and such other relief as may be just and proper.

Dated: April 14, 2016

Respectfully Submitted,

For Plaintiff United States of America:

WILLIAM J. BAER,
Assistant Attorney General for Antitrust

DAVID I. GELFAND,
Deputy Assistant Attorney General

PATRICIA A. BRINK,
Director of Civil Enforcement

PETER J. MUCCHETTI,
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CAROL A. CASTO,
Acting United States Attorney for the Southern District of West Virginia

Matthew Lindsay,
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Attorneys for the United States
* *Attorney of Record*

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. *CHARLESTON AREA MEDICAL CENTER, INC. and ST. MARY'S MEDICAL CENTER, INC., Defendants.*

CASE NO.: 2:16–cv–03664
JUDGE: John T. Copenhaver, Jr.
FILED: 04/14/2016

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA" or "Tunney Act"), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On April 14, 2016, the United States filed a civil antitrust Complaint alleging that Defendants Charleston Area Medical Center ("CAMC") and St. Mary's Medical Center ("St. Mary's") violated Section 1 of the Sherman Act, 15 U.S.C. 1. The Complaint alleges that CAMC and St. Mary's agreed to unlawfully allocate territories for the marketing of competing healthcare services and to limit competition between themselves. Specifically, according to the Complaint, CAMC and St. Mary's entered into an agreement under which they agreed not to advertise on billboards or in print in each others' home counties in West Virginia. The agreement eliminated a significant form of competition to attract patients and overall substantially diminished competition to provide healthcare services. Defendants' agreement to allocate territories for marketing is *per se* illegal under Section 1 of the Sherman Act, 15 U.S.C. 1.

With the Complaint, the United States filed a Stipulation and proposed Final Judgment that, as explained more fully below, enjoins Defendants from (1) agreeing with any healthcare provider to prohibit or limit marketing or to allocate any service, customer, or geographic market or territory, and (2) communicating with each other about marketing, subject to narrow exceptions.

The United States and the Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that this Court would retain jurisdiction to construe, modify, and enforce the proposed Final Judgment and to punish violations thereof.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATIONS VIOLATIONS

A. Background on Defendants and Their Marketing Activities

Defendants CAMC and St. Mary's are healthcare providers that operate general acute-care hospitals in Charleston, Kanawha County, West Virginia, and Huntington, Cabell County, West Virginia, respectively. CAMC and St. Mary's compete with each other to provide hospital and physician services to patients. Hospitals compete through price, quality, and other factors to sell their services to patients, employers, and insurance companies.

Marketing is an important tool that hospitals use to compete for patients. Hospitals use marketing to inform patients about a hospital's quality, scope of services, and the expertise of its physicians. Defendants' marketing methods include print advertisements, such as newspaper advertisements, and outdoor advertisements, such as billboards. Healthcare provider advertisements on billboards and newspapers helps enable patients to make more informed healthcare choices, including choosing healthcare providers that offer higher quality care and more convenient services. Advertising also spurs competition for patients, which can lead hospitals to invest in providing better care and a broader range of services.

B. Defendants' Unlawful Agreement to Limit Marketing

Since at least 2012, CAMC and St. Mary's have agreed to limit their marketing for competing services. CAMC agreed not to place print or outdoor advertisements in Cabell County, and St. Mary's agreed not to place print or outdoor advertisements in Kanawha County. Defendants' marketing departments have monitored and enforced this agreement. Defendants' documents show the impact of this agreement on the Defendants' marketing.

In January 2012, a CAMC urology group asked CAMC's marketing department to advertise its physicians in *The Herald Dispatch,* a Cabell County newspaper. In response, a CAMC marketing department employee emailed the CAMC Director of Marketing, noting that CAMC does not typically advertise in *The Herald Dispatch* because of its '''gentleman's agreement''' with St. Mary's. Consistent with its agreement with St. Mary's, CAMC did not place the newspaper advertisement.

In May 2013, St. Mary's Director of Marketing complained to CAMC's Director of Marketing after CAMC ran a newspaper ad promoting a CAMC physicians' group in *The Herald Dispatch,* and succeeded in getting CAMC to agree to remove the advertisement. In an email from St. Mary's Director of Marketing to other St. Mary's senior executives, he wrote, "I talked with CAMC and they agreed this ad violated our agreement not to advertise in Charleston paper if they didn't advertise in Huntington paper. Their director of marketing Says she pulled the ad but was concerned it might still run again one more time this Sunday. I can't call the HD [*Herald Dispatch*] and make sure because they could challenge this type of handshake agreement That [sic] prevents them from getting advertising dollars from a different advertiser. We'll see and I'll follow up from there but after Sunday I am confident we won't see CAMC again in HD." Consistent with its agreement with St. Mary's, and as described by St. Mary's Director of Marketing, CAMC asked the *Herald Dispatch* to remove the advertisement.

In June 2014, when a CAMC-owned physicians' group requested marketing in Cabell County, a CAMC marketing department employee responded by telling the group's representative that CAMC does not market specialist physicians in Cabell County and St. Mary's does not market specialists in Kanawha County. Consistent with its agreement with St. Mary's, CAMC refused to market that physicians' group in Cabell County.

In August 2014, when another CAMC-owned physicians' group requested billboard advertising in Cabell County, a CAMC marketing representative wrote to CAMC's Director of Marketing, "They had asked for print and billboard placement in Huntington. I explained our informal agreement. They understood." CAMC's Director of Marketing replied, "Just watch the county line my friend." Consistent with its agreement with St. Mary's, CAMC did not place print or billboard advertising for the physician practice in Cabell County.

Defendants' anticompetitive agreement is not reasonably necessary to further any procompetitive purpose. Defendants' agreement allocates territories for marketing and constitutes a naked restraint of trade that is *per se* unlawful under Section 1 of the Sherman Act, 15 U.S.C. 1. *See United States* v. *Topco Assocs., Inc.,* 405 U.S. 596, 607–08 (1972) (holding that naked market allocation agreements among horizontal competitors are plainly anticompetitive and illegal per se); *United States* v. *Cooperative Theatres of Ohio,* Inc., 845 F.2d 1367, 1371, 1373 (6th Cir. 1988) (holding that the defendants' agreement to not "*actively* solicit[ ] each other's customers" was "undeniably a type of customer allocation scheme which courts have often condemned in the past as a *per se* violation of the Sherman Act"); *Blackburn* v. *Sweeney,* 53 F.3d 825, 828 (7th Cir. 1995) (holding that the "[a]greement to limit advertising to different geographical regions was intended to be, and sufficiently approximates[,] an agreement to allocate markets so that the *per se* rule of illegality applies").

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The proposed Final Judgment will prevent the continuation and recurrence of the violations alleged in the Complaint and restore the competition restrained by Defendants' anticompetitive agreement. Section VIII of the proposed Final Judgment provides that these provisions will expire five years after its entry.

A. Prohibited Conduct

Under Section IV of the proposed Final Judgment, Defendants cannot agree with any healthcare provider to prohibit or limit marketing or to allocate any service, customer, or geographic market or territory, unless such agreement is reasonably necessary to further a procompetitive purpose concerning the joint provision of services. The joint provision of services is any past, present, or future coordinated delivery of any healthcare services by two or more healthcare providers. Defendants also are prohibited from communicating with each other about any Defendant's marketing, subject to three narrow exceptions. There is an exception for communication about joint marketing if the communication is related to the joint provision of services. In addition, there are exceptions for communications about marketing that are part of customary due diligence relating to a merger, acquisition, joint venture, investment, or divestiture, and communications about false or misleading statements made in a Defendant's marketing.

These prohibited conduct provisions will restore the competition lost as a result of CAMC's and St. Mary's unlawful agreement to allocate territories for the marketing of competing healthcare services.

B. Compliance and Inspection

The proposed Final Judgment sets forth various provisions to ensure Defendants' compliance with the proposed Final Judgment. Section V of the proposed Final Judgment requires each Defendant to appoint an Antitrust Compliance Officer within 30 days of the Final Judgment's entry. The Antitrust Compliance Officer must furnish copies of this Competitive Impact Statement, the Final Judgment, and an approved notice explaining the obligations of the Final Judgment to each Defendant's officers, directors, and marketing managers, and to any person who succeeds to any such position. The Antitrust Compliance Officer must also obtain from each recipient a certification that he or she has read and agreed to abide by the terms of the Final Judgment, and must maintain a record of all certifications received. Recipients must also certify that they are not aware of any violation of the Final Judgment. Additionally, each Antitrust Compliance Officer shall annually brief each person required to receive a copy of the Final Judgment and this Competitive Impact Statement on the meaning and requirements of the Final Judgment and the antitrust laws. Each Antitrust Compliance Officer shall also annually communicate to all employees that any employee may disclose, without reprisal, information concerning any potential violation of the Final Judgment or the antitrust laws.

For a period of five years following the date of entry of the Final Judgment, the Defendants separately must certify annually to the United States that they have complied with the provisions of the Final Judgment. Additionally, upon learning of any violation or potential violation of the terms and conditions of the Final Judgment, Defendants must within thirty days file with the United States a statement describing the violation or potential violation, and must promptly take action to terminate or modify the activity in order to comply with the Final Judgment.

To facilitate monitoring of the Defendants' compliance with the Final Judgment, Section VI of the proposed Final Judgment requires each Defendant to grant the United States access, upon reasonable notice, to Defendant's records and documents relating to matters contained in the Final Judgment. Defendants must also make their employees available for interviews or depositions and answer interrogatories and prepare written reports relating to matters contained in the Final Judgment upon request.

These provisions are designed to prevent recurrence of the type of illegal conduct alleged in the Complaint.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against the Defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and the Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty days of the date of publication of this Competitive Impact Statement in the **Federal Register,** or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the U.S. Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site and, under certain circumstances, published in the **Federal Register.**

Written comments should be submitted to:

Peter J. Mucchetti
Chief, Litigation I Section
Antitrust Division
United States Department of Justice
450 Fifth Street, NW., Suite 4100
Washington, DC 20530

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against the Defendants. The United States is satisfied, however, that the relief proposed in the Final Judgment will prevent the recurrence of the violation alleged in the Complaint and ensure that patients and physicians benefit from competition between the Defendants. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits.

VII. STANDARD OF REVIEW UNDER THE APA FOR THE PROPOSED FINAL JUDGMENT

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one, because the government is entitled to "broad discretion to settle with the Defendant within the reaches of the public interest." *United States* v. *Microsoft Corp.*, 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States* v. *U.S. Airways Group, Inc.*, 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (noting the court has broad discretion over the adequacy of the relief at issue); *United States* v. *SBC Commc'ns, Inc.*, 489 F. Supp. 2d 1 (D.D.C. 2007) (describing the public-interest standard under the Tunney Act); *United States* v. *InBev N.V./S.A.*, No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires "into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the final judgment are clear and manageable").[1]

Under the APPA, a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft*, 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft*, 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.*, 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *3. One court explained:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of [e]nsuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "*within the reaches of the public interest.*" More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[2] In determining whether a proposed settlement is in the public interest, a district court "must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations." *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that a court should not reject the proposed remedies because it believes others are preferable); *Microsoft,* 56 F.3d at 1461 (noting the need for courts to be "deferential to the government's predictions as to the effect of the proposed remedies"); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

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[1] The 2004 amendments substituted "shall" for "may" in directing relevant factors for courts to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns*, 489 F. Supp. 2d at 11 (concluding that the 2004 amendments "effected minimal changes" to Tunney Act review).

[2] *Cf. BNS*, 858 F.2d at 464 (holding that the court's "ultimate authority under the [APPA] is limited to approving or disapproving the consent decree"); *United States* v. *Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to "look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass"). *See generally Microsoft*, 56 F.3d at 1461 (discussing whether "the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'").

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'" *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted); *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that room must be made for the government to grant concessions in the negotiation process for settlements) (citing *Microsoft,* 56 F.3d at 1461); *United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States "need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms." *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 76 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 ("the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged"). Because the "court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that "the court is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As a court confirmed in *SBC Communications,* courts "cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power." *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of using consent decrees in antitrust enforcement, adding the unambiguous instruction that "[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (noting that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). The language captured Congress's intent when it enacted the Tunney Act in 1974. Senator Tunney explained: "The court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public-interest determination is left to the discretion of the court, with the recognition that the court's "scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings." *SBC Commc'ns,* 489 F. Supp. 2d at 11.[3] A court can make its public-interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways,* 38 F. Supp. 3d at 76.

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: April 14, 2016

Respectfully submitted,

For PlaintiffUnited States of America

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CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2016, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system and sent it via email to the following counsel at the email addresses below.

Counsel for Defendant Charleston Area Medical Center, Inc.:

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UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. *CHARLESTON AREA MEDICAL CENTER, INC. and ST. MARY'S MEDICAL CENTER, INC., Defendants.*

CASE NO.: 2:16–cv–03664
JUDGE: John T. Copenhaver, Jr.
FILED: 04/14/2016

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[3] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the "Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone"); *United States* v. *Mid-Am. Dairymen, Inc.,* No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D. Mo. 1977) ("Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances."); S. Rep. No. 93–298, at 6 (1973) ("Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.").

[PROPOSED] FINAL JUDGMENT

Whereas, Plaintiff the United States of America filed its Complaint on April 14, 2016, alleging that Defendants violated Section 1 of the Sherman Act, 15 U.S.C. § 1;

And whereas, Plaintiff and Defendants Charleston Area Medical Center, Inc. and St. Mary's Medical Center, Inc., by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law;

And whereas, Plaintiff requires the Defendants to agree to undertake certain actions and refrain from certain conduct for the purpose of remedying the anticompetitive effects alleged in the Complaint;

Now therefore, before any testimony is taken, without this Final Judgment constituting any evidence against or admission by Defendants regarding any issue of fact or law, and upon consent of the parties to this action, it is *ordered, adjudged, and decreed:*

I. JURISDICTION

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against the Defendants under Section 1 of the Sherman Act, 15 U.S.C. § 1.

II. DEFINITIONS

As used in this Final Judgment:

(A) "Agreement" means any contract, arrangement, or understanding, formal or informal, oral or written, between two or more persons.

(B) "CAMC" means Defendant Charleston Area Medical Center, Inc., a nonprofit hospital system organized and existing under the laws of West Virginia with its headquarters in Charleston, West Virginia, its successors and assigns, and its controlled subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their respective directors, officers, managers, agents, and employees.

(C) "Communicate" means to discuss, disclose, transfer, disseminate, or exchange information or opinion, formally or informally, directly or indirectly, in any manner.

(D) "Joint Provision of Services" means any past, present, or future joint health education campaign or coordinated delivery of any healthcare services by two or more healthcare providers, including a clinical affiliation, joint venture, management agreement, accountable care organization, clinically integrated network, group purchasing organization, management services organization, or physician hospital organization.

(E) "Marketing" means any past, present, or future activities that are involved in making persons aware of the services or products of the hospital or of physicians employed or with privileges at the hospital, including advertising, communications, public relations, provider network development, outreach to employers or physicians, and promotions, such as free health screenings and education.

(F) "Marketing Manager" means any company employee or manager with management responsibility for or oversight of Marketing.

(G) "Person" means any natural person, corporation, firm, company, sole proprietorship, partnership, joint venture, association, institute, governmental unit, or other legal entity.

(H) "Provider" means any health care professional or group of professionals and any inpatient or outpatient medical facility including hospitals, ambulatory surgical centers, urgent care facilities, and nursing facilities. A health insurance plan, health maintenance organization, or other third party payor of health care services, acting in that capacity, is not a "Provider."

(I) "Relevant Area" means the state of West Virginia; Boyd County, Kentucky; and Lawrence County, Ohio.

(J) "St. Mary's" means Defendant St. Mary's Medical Center, Inc., a nonprofit hospital organized and existing under the laws of West Virginia with its headquarters in Huntington, West Virginia, its successors and assigns, and its controlled subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their respective directors, officers, managers, agents, and employees.

III. APPLICABILITY

This Final Judgment applies to the Defendants, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV. PROHIBITED CONDUCT

(A) Each Defendant shall not enter into, attempt to enter into, maintain, or enforce any Agreement with any other Provider that:

(1) prohibits or limits Marketing; or

(2) allocates any service, customer, or geographic market or territory between or among the Defendant and any other Provider, unless such Agreement is reasonably necessary to further a procompetitive purpose concerning the Joint Provision of Services.

(B) Each Defendant shall not communicate with the other Defendant about any Defendant's Marketing, except each Defendant may:

(1) communicate with the other Defendant about joint Marketing if the communication is related to the Joint Provision of Services;

(2) communicate with the other Defendant about Marketing if the communication is part of customary due diligence relating to a merger, acquisition, joint venture, investment, or divestiture; or

(3) communicate with the other Defendant about claims or statements made in the other Defendant's Marketing that the Defendant believes are false or misleading, or to respond to such communications from the other Defendant.

V. REQUIRED CONDUCT

(A) Within 30 days of entry of this Final Judgment, each Defendant shall appoint, subject to the approval of the United States, an Antitrust Compliance Officer. In the event such person is unable to perform his or her duties, each Defendant shall appoint, subject to the approval of the United States, a replacement within ten (10) working days.

(B) Each Defendant's Antitrust Compliance Officer shall:

(1) furnish a copy of this Final Judgment, the Competitive Impact Statement, and a cover letter that is identical in content to Exhibit 1 within 60 days of entry of the Final Judgment to that Defendant's officers, directors, and Marketing Managers, and to any person who succeeds to any such position, within 30 days of that succession;

(2) annually brief each person designated in Section V(B)(1) on the meaning and requirements of this Final Judgment and the antitrust laws;

(3) obtain from each person designated in Section V(B)(1), within 60 days of that person's receipt of the Final Judgment, a certification that he or she (i) has read and, to the best of his or her ability, understands and agrees to abide by the terms of this Final Judgment; (ii) is not aware of any violation of the Final Judgment that has not already been reported to the Defendant; and (iii) understands that any person's failure to comply with this Final Judgment may result in an enforcement action for civil or criminal contempt of court against each Defendant and/or any person who violates this Final Judgment;

(4) maintain a record of certifications obtained pursuant to this Section; and

(5) annually communicate to all of the Defendant's employees that they may disclose to the Antitrust Compliance Officer, without reprisal, information

concerning any potential violation of this Final Judgment or the antitrust laws.

(C) Each Defendant shall:

(1) upon learning of any violation or potential violation of any of the terms and conditions contained in this Final Judgment, promptly take appropriate action to terminate or modify the activity so as to comply with this Final Judgment and maintain all documents related to any violation or potential violation of this Final Judgment;

(2) file with the United States a statement describing any violation or potential violation within 30 days of a violation or potential violation becoming known. Descriptions of violations or potential violations of this Final Judgment shall include, to the extent practicable, a description of any communications constituting the violation or potential violation, including the date and place of the communication, the persons involved, and the subject matter of the communication; and

(3) certify to the United States annually on the anniversary date of the entry of this Final Judgment that the Defendant has complied with all of the provisions of this Final Judgment.

VI. COMPLIANCE INSPECTION

(A) For the purposes of determining or securing compliance with this Final Judgment, or of any related orders, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice, including consultants and other retained persons, shall, upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

(1) access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, Defendants' officers, directors, employees, or agents, who may have individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

(B) Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or response to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

(C) No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If at the time information or documents are furnished by Defendants to the United States, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," then the United States shall give Defendants ten calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

VII. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

VIII. EXPIRATION OF FINAL JUDGMENT

Unless this Court grants an extension, this Final Judgment shall expire five years from the date of its entry.

IX. NOTICE

For purposes of this Final Judgment, any notice or other communication required to be filed with or provided to the United States shall be sent to the person at the addresses set forth below (or such other address as the United States may specify in writing to any Defendant):

Chief
Litigation I Section
U.S. Department of Justice
Antitrust Division
450 Fifth Street, Suite 4100
Washington, DC 20530

X. PUBLIC INTEREST DETERMINATION

The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon, and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Dated: ____________________

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16

____

Hon. Dwane L. Tinsley
United States Magistrate Judge

Exhibit 1

[Letterhead of Defendant]
[Name and Address of Antitrust Compliance Officer]
Dear [XX]:

I am providing you this letter to make sure you know about a court order recently entered by a federal judge in Charleston, West Virginia. This order applies to [Defendant] and all of its employees, including you, so it is important that you understand the obligations it imposes on us. [CEO Name] has asked me to let each of you know that s/he expects you to take these obligations seriously and abide by them.

Under the order, we are prohibited from agreeing with other healthcare providers (including hospitals and physicians) to limit marketing or to divide any services, customers, or geographic markets or territories between us and other healthcare providers. This means you may not promise, tell, agree with, or give any assurance to another healthcare provider that [Defendant] will refrain from marketing our services to any customer or in any particular geographic area, and you may not ask for any promise, agreement, or assurance from them that they will refrain from marketing their services to any customer or in any particular geographic area. In addition, you may not communicate with [other Defendant] or its employees about our marketing plans or their marketing plans. (While there are a few limited exceptions to this rule, such as discussing joint projects, you must check with me before you communicate with anyone from [other Defendant] about marketing plans.)

A copy of the court order is attached. Please read it carefully and familiarize yourself with its terms. The order, rather than the above description, is controlling. If you have any questions about the order or how it affects your activities, please contact me. Thank you for your cooperation.

Sincerely,

[Defendant's Antitrust Compliance Officer]

[FR Doc. 2016–09728 Filed 4–25–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On April 15, 2016, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of South Dakota, Western Division in the lawsuit entitled *United States and State of South Dakota* v. *CoCa Mines, Inc. and Thomas E. Congdon,* Civil Action No. 5:16–cv–05022–JLV.

This case was brought under Sections 107(a) and 113(g)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9607(a) and 9613(g)(2), for the recovery of response costs related to the cleanup at the Gilt Edge Mine Site ("Site") in Lawrence County, South Dakota.

The United States and the State of South Dakota filed a Complaint in this case on April 14, 2016 alleging that the Defendants are jointly and severally liable for response costs related to the cleanup at the Site. 42 U.S.C. 9607(a) and 9613(g)(2). The Complaint requests recovery of costs that the United States and the State incurred responding to releases of hazardous substances at the Site near Lead, South Dakota. Both Defendants signed the Consent Decree and will pay a combined $10.3 million in cash, with CoCa Mines paying up to an additional $700,000 in future insurance recovery. The money will be used to help pay for response costs related to the cleanup at the Site. In return, the United States and the State of South Dakota agree not to sue the Defendants under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607. The Consent Decree would resolve the claims against the Defendants as described in the Complaint.

The publication of this Notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of South Dakota* v. *CoCa Mines, Inc. and Thomas E. Congdon,* D.J. Ref. No. 90–11–3–11179. All comments must be submitted no later than thirty (30) days after the publication date of this Notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $8.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Jeffrey K. Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–09565 Filed 4–25–16; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On April 14, 2016, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Colorado in the lawsuit entitled *United States and State of Colorado* v. *CoCa Mines, Inc.,* Civil Action No. 1:16–cv–00847WJM.

The case concerns the Nelson Tunnel/Commodore Waste Rock Pile Superfund Site ("Site") located near Creede, Colorado, and the potential liability of CoCa Mines, Inc. under Section 107(a) of CERCLA, 42 U.S.C. 9607(a), as a past owner or operator at the Site from 1973 to 1993. Under the settlement CoCa Mines, Inc. will pay $5.4 million to the U.S. Environmental Protection Agency ("EPA") and $600,000 to the Colorado Department of Public Health and Environment ("CDPHE") for response costs incurred and to be incurred at the Site. The settlement extends a covenant not to sue under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, to the Settling Defendant, CoCa Mines, Inc., and to the Settling Defendant's Related Parties a term defined, subject to specific limitations, to include Hecla Limited and Creede Resources, Inc. The settlement further extends, subject to specific limitations, to Settling Defendant's successors and assigns, and to the officers, directors, and employees of Settling Defendant and Settling Defendant's Related Parties.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Colorado* v. *CoCa Mines, Inc.,* D.J. Ref. No. 90–11–3–10841. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	pubcomment-ees.enrd@usdoj.gov.
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $6.75 (25 cents per page reproduction cost) payable to the United States Treasury for a copy of the Consent Decree.

Jeffrey K. Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–09564 Filed 4–25–16; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,717; TA–W–85,717A]

California Redwood Company, A Subsidiary of Green Diamond Resource Company, Korbel, CA; California Redwood Company, Brainard Division, A Subsidiary of Green Diamond Resource Company, Including On-Site Leased Workers From Express Employment Professionals and River City Staffing, Eureka, CA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on March 18, 2015 applicable to workers and former workers of California Redwood Company, a subsidiary of Green Diamond Resource Company, Korbel, California. Workers of the subject firm are engaged in activities related to the production of lumber.

A state workforce agent requested that the Department review the aforementioned certification because an affiliated Eureka, California facility finishes the lumber produced at the Korbel, California facility.

The intent of the Department's certification is to include all workers at the subject firm who were adversely affected by increased imports of lumber products.

The Department has determined that the Eureka, California facility supplied drying, shipping and finishing services to affiliated California Redwood Company facilities, including the Korbel, California facility; specifically, the Eureka, California facility received rough lumber from the Korbel, California facility to supply services to produce precision, specific, and decorative cuts of redwood. In addition, the worker groups at the Korbel and Eureka, California facilities are similarly impacted by increased imports of articles like or directly competitive with the lumber products produced by the subject firm.

Based on these findings, the Department is amending this certification to also include workers of California Redwood Company, Brainard Division, a subsidiary of Green Diamond Resource Company, including on-site leased workers from Express Employment Professionals and River City Staffing, Eureka, California.

The amended notice applicable to TA–W–85,717 is hereby issued as follows:

> All workers of California Redwood Company, a subsidiary of Green Diamond Resource Company, Korbel, California (TA–W–85,717) and California Redwood Company, Brainard Division, a subsidiary of Green Diamond Resource Company, including on-site leased workers from Express Employment Professionals and River City Staffing, Eureka, California (TA–W–85,717A), who became totally or partially separated from employment on or after December 9, 2013 through March 18, 2017, and all workers in the two groups threatened with total or partial separation from employment on December 9, 2013 through March 18, 2017 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 10th day of March, 2016.

Jessica R. Webster,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–09551 Filed 4–25–16; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, no later than May 6, 2016.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 6, 2016.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 1st day of April 2016.

Jessica R. Webster,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

109 TAA PETITIONS INSTITUTED BETWEEN 2/29/16 AND 3/25/16

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
91523	Eaton Corporation (Workers)	Gainesboro, TN	02/29/16	02/22/16
91524	Cameron International Corp. (State/One-Stop)	Millbury, MA	02/29/16	02/26/16
91525	Teknetix Inc. (Workers)	Parkersburg, WV	02/29/16	02/26/16
91526	Fairmont Supply Company (Workers)	Troy, PA	02/29/16	02/26/16
91527	Venango Steel, Inc. (Company)	Franklin, PA	03/01/16	02/29/16
91528	DTNA CTMP (Workers)	Cleveland, NC	03/01/16	02/24/16
91529	Bimbo Bakeries USA, Inc. (Workers)	Spencer, IA	03/01/16	02/25/16

109 TAA PETITIONS INSTITUTED BETWEEN 2/29/16 AND 3/25/16—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
91530	Progress Metal Reclamation (State/One-Stop)	Ashland, KY	03/01/16	03/01/16
91531	TTI Floor Care North America (Union)	North Canton, OH	03/01/16	02/29/16
91532	Ingersoll Rand (State/One-Stop)	Cheektowaga, NY	03/01/16	02/29/16
91533	Cleanharbors (Workers)	San Leon, TX	03/02/16	03/01/16
91534	EVRAZ Oregon Steel (Company)	Portland, OR	03/02/16	03/01/16
91535	GETS General Electric Transportation (Company)	Grove City, PA	03/02/16	03/01/16
91536	Kennametal, Inc. (Workers)	Latrobe, PA	03/02/16	02/22/16
91537	Boone Hospital Center (State/One-Stop)	Columbia, MO	03/02/16	03/01/16
91538	Campbell Soup Company (State/One-Stop)	Camden, NJ	03/02/16	03/01/16
91539	Genpact (State/One-Stop)	Farmington Hills, MI	03/03/16	03/02/16
91540	ET Manufacturing Corporation (State/One-Stop)	Sartell, MN	03/03/16	03/02/16
91541	C.R. Bard Inc. (State/One-Stop)	Stewartille, MN	03/03/16	03/02/16
91542	UCI–FRAM Group, LLC/Autolite (Company)	Lake Forest, IL	03/03/16	03/03/16
91543	CVG Mayflower Systems Group, L.L.C. (Company)	Shadyside, OH	03/03/16	02/15/16
91544	Black Knight Financial Services Inc. (State/One-Stop)	Glendale, CA	03/04/16	03/03/16
91545	Covanta Maine LLC-Covanta Jonesboro (Company)	Jonesboro, ME	03/04/16	03/03/16
91546	Dial America (State/One-Stop)	Williamsville, NY	03/04/16	03/03/16
91547	GE Transportation (Union)	Erie, PA	03/04/16	03/03/16
91548	Sensata Technologies (Workers)	Everett, WA	03/04/16	03/03/16
91549	W.W. Grainger (Workers)	Janesville, WI	03/04/16	03/03/16
91550	Microfibres Inc., (Workers)	Winston Salem, NC	03/04/16	03/03/16
91551	UTi (State/One-Stop)	Portland, OR	03/07/16	03/04/16
91552	Double Press Manufacturing, Inc. (State/One-Stop)	Madras, OR	03/07/16	03/04/16
91553	Bank of America (State/One-Stop)	Charlotte, NC	03/07/16	03/04/16
91554	Polar Tank Trailer (State/One-Stop)	Holdingford, MN	03/07/16	03/04/16
91555	Time Machine, Inc. (Company)	Polk, PA	03/07/16	03/04/16
91556	Bradken, Inc. (State/One-Stop)	St. Joseph, MO	03/07/16	03/04/16
91557	Hutchinson Technology Inc. (State/One-Stop)	Hutchinson, MN	03/07/16	03/04/16
91558	CNA Insurance (State/One-Stop)	Syracuse, NY	03/08/16	03/07/16
91559	Halliburton Energy Services (All Duncan, OK Locations) (Workers)	Duncan, OK	03/08/16	03/07/16
91560	General Cable Corp (Malvern Division) (Company)	Malvern, AR	03/08/16	03/07/16
91561	Schlumhberger (State/One-Stop)	Lafayette, LA	03/08/16	03/07/16
91562	Halliburton (Workers)	Duncan, OK	03/08/16	03/07/16
91563	Measurement Specialties, Inc. (Company)	Beavercreek, OH	03/08/16	03/07/16
91564	Sprint (Workers)	Temple, TX	03/09/16	02/06/16
91565	Bridgestone/Firestone (Union)	Des Moines, IA	03/09/16	02/17/16
91566	UBS (State/One-Stop)	Weehawken, NJ	03/09/16	03/08/16
91567	Titan Tire (Union)	Bryan, OH	03/09/16	03/08/16
91568	Hewlett-Packard Company (State/One-Stop)	Colorado Springs, CO	03/09/16	03/08/16
91569	Vigo Coal Operating Company—Friendsville Mine (Company)	Mount Carmel, IL	03/09/16	03/08/16
91570	EigenLight Corporation (Company)	Somersworth, NH	03/10/16	02/25/16
91571	Molycorp Mt. Pass (Workers)	Mountain Pass, CA	03/10/16	02/22/16
91572	Lehigh Specialty Melting (Workers)	Latrobe, PA	03/10/16	03/09/16
91573	nLight Inc. (State/One-Stop)	Vancouver, WA	03/11/16	02/16/16
91574	Sensata Technologies (State/One-Stop)	Everett, WA	03/11/16	03/01/16
91575	Swanson Group Headquarters (State/One-Stop)	Glendale, OR	03/11/16	03/10/16
91576	AECOM (State/One-Stop)	Austin, TX	03/11/16	03/10/16
91577	Lelege USA Corp. (State/One-Stop)	Dallas, TX	03/11/16	03/10/16
91578	QBE North America (State/One-Stop)	Eden Prairie, MN	03/11/16	03/10/16
91579	Republic Steel (Union)	Massillon, OH	03/11/16	03/10/16
91580	The Bank of New York Mellon (Workers)	Syracuse, NY	03/14/16	03/05/16
91581	Ocwen Loan Servicing, LLC (State/One-Stop)	Waterloo, IA	03/14/16	03/11/16
91582	Hologic (State/One-Stop)	Bedford, MA	03/14/16	03/11/16
91583	Dyno Nobel (State/One-Stop)	Biwabik, MN	03/14/16	03/11/16
91584	Blackmer Pump (Union)	Grand Rapids, MI	03/14/16	03/13/16
91585	Ziegler Cat (State/One-Stop)	Buhl, MN	03/14/16	03/11/16
91586	Maersk Agency USA, Inc. (Company)	The Woodlands, TX	03/14/16	03/11/16
91587	RWC, Inc. (Workers)	Bay City, MI	03/14/16	03/12/16
91588	Century Aluminum of South Carolina Inc. (Company)	Goose Creek, SC	03/15/16	03/14/16
91589	Fujitsu America Inc. (State/One-Stop)	Sunnyvale, CA	03/15/16	03/14/16
91590	Madison Paper Industries (Union)	Madison, ME	03/15/16	03/14/16
91591	Eaton Corporation (Company)	Spencer, IA	03/15/16	03/14/16
91592	Hewlett Packard (State/One-Stop)	Quincy, MA	03/15/16	03/14/16
91593	Alexander & Baldwin, LLC (Union)	Puunene, HI	03/16/16	03/08/16
91594	Sprint Corporation (Workers)	Temple, TX	03/16/16	02/06/16
91595	Vuteq USA, Inc. (Company)	Normal, IL	03/16/16	03/15/16
91596	Hitachi Metals Automotive Components USA, LLC (Company)	Wellsboro, PA	03/16/16	03/14/16
91597	Plantronics, Inc. (Workers)	Santa Cruz, CA	03/16/16	03/14/16
91598	Qualcomm Technology, Inc. (State/One-Stop)	San Diego, CA	03/16/16	03/15/16
91599	Range Steel Fabricators (State/One-Stop)	Hibbing, MN	03/16/16	03/15/16
91600	Langeloth Metallurgical Co. (Workers)	Langeloth, PA	03/17/16	03/16/16

109 TAA PETITIONS INSTITUTED BETWEEN 2/29/16 AND 3/25/16—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
91601	Trinity Containers, LLC (Workers)	Quincy, IL	03/17/16	03/09/16
91602	Accuride Corporation (Workers)	Camden, SC	03/17/16	03/16/16
91603	SSSI, Inc., d/b/a Songer Steel Services, Inc. (Company)	Washington, PA	03/17/16	03/16/16
91604	Dairy Farmers of America (DFA) (State/One-Stop)	Springfield, MO	03/18/16	03/17/16
91605	Statcorp (Company)	Jacksonville, FL	03/18/16	03/17/16
91606	Big Heart Pet Brands (State/One-Stop)	Terminal Island, CA	03/18/16	03/17/16
91607	Bombardier Learjet (State/One-Stop)	Wichita, KS	03/18/16	03/17/16
91608	Harsko (Union)	Koppel, PA	03/18/16	03/17/16
91609	Kim Lighting (State/One-Stop)	City of Industry, CA	03/21/16	03/18/16
91610	Chevron (Workers)	Lost Hills, CA	03/21/16	03/18/16
91611	Sherwin Alumina (Union)	Gregory, TX	03/22/16	03/21/16
91612	Cartus Corporation (Company)	Danbury, CT	03/22/16	03/21/16
91613	Microfibres, Inc. (State/One-Stop)	Winston-Salem, NC	03/22/16	03/21/16
91614	Littelfuse, Inc. (Company)	Chicago, IL	03/22/16	03/21/16
91615	Nordic-Calista Services (Company)	Anchorage, AK	03/22/16	03/21/16
91616	Mary's River Lumber Company (State/One-Stop)	Montesano, WA	03/23/16	03/21/16
91617	Boise (State/One-Stop)	International Falls, MN	03/23/16	03/22/16
91618	Kato Engineering Inc. (State/One-Stop)	North Mankato, MN	03/23/16	03/22/16
91619	Allen Harim Foods (State/One-Stop)	Cordova, MD	03/23/16	03/22/16
91620	Citation Oil and Gas Corporation (State/One-Stop)	Odin, IL	03/23/16	03/22/16
91621	Au'Some Candy Company (Workers)	Sumter, SC	03/23/16	03/22/16
91622	General Electric Lighting, Inc. (State/One-Stop)	Mattoon, IL	03/23/16	03/22/16
91623	Experian (Company)	Costa Mesa, CA	03/23/16	03/22/16
91624	IBM—Global Services Division, MWPM (State/One-Stop)	Armonk, NY	03/23/16	03/23/16
91625	Preferred Podiatry Management, LLC (State/One-Stop)	Northbrook, IL	03/24/16	03/23/16
91626	Strata Mine Services (Workers)	Canonsburg, PA	03/24/16	03/23/16
91627	Grand Rapids Plastics (State/One-Stop)	Grand Rapids, MI	03/24/16	03/23/16
91628	McGuane Industries (Workers)	Burton, MI	03/24/16	03/23/16
91629	Royal Oak Industries Company (State/One-Stop)	Bloomfield Hills, MI	03/25/16	03/21/16
91630	Royal Oak Boring (State/One-Stop)	Port Huron, MI	03/25/16	03/21/16
91631	Bronson Precision Products (State/One-Stop)	Bronson, MI	03/25/16	03/21/16

[FR Doc. 2016–09553 Filed 4–25–16; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *February 29, 2016 through March 25, 2016.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) the increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) the shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) a significant number or proportion of the workers in the workers' firm have

become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(e) of the Act must be met.

(1) the workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); or

(B) not withstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W number	Subject firm	Location	Impact date
85,022	Intrepid Potash Inc., Intrepid Potash, LLC-New Mexico, Intrepid Potash, LLC-Moad Delaware, etc.	Carlsbad, NM	January 17, 2013
85,081	Larsen Manufacturing Southwest, Employers Solution Saffing Group and Flexicorps.	El Paso, TX	February 20, 2013
85,155	DMI Edon, LLC, Diversified Machine, Inc., Chassix, Inc	Edon, OH	March 4, 2013
85,245	Detroit Tool & Engineering, Inc	Lebanon, MO	April 16, 2013
85,397	Accenture, LLP, Business Process Specialization	Charlotte, NC	June 25, 2013
85,497	INVISTA S.A.R.L., Apparel Division, Koch Industries, Inc	Waynesboro, VA	December 15, 2013
86,011	Goodman Networks, Inc., Core Network Engineering (Deployment Engineering) Division.	Plano, TX	February 9, 2015
86,011A	Goodman Networks, Inc., Core Network Engineering (Deployment Engineering) Division.	Alpharetta, GA	February 9, 2015
86,011B	Goodman Networks, Inc., Core Network Engineering (Deployment Engineering) Division.	Hunt Valley, MD	February 9, 2015
86,011C	Goodman Networks, Inc., Core Network Engineering (Deployment Engineering) Division.	Naperville, IL	February 9, 2015
86,011D	Goodman Networks, Inc., Core Network Engineering (Deployment Engineering) Division.	St. Louis, MO	February 9, 2015
86,104	Northwest Pipe Company, IMKO Workforce Solutions	Atchison, KS	June 17, 2014
86,127	Johnson Metall, Inc., A.E. Cole, Johnson Metall Group	Lorain, OH	May 29, 2014
90,122	Allied Tube & Conduit Corporation, Atkore International Group, Inc., Atkore International, Randstad, etc.	Philadelphia, PA	January 1, 2014
90,136	Modine Manufacturing Company	Jefferson City, MO	January 1, 2014
90,149	US Green Fiber, LLC	Hagaman, NY	January 1, 2014
90,151	Sherwood Valve LLC, Mueller Industries	Washington, PA	June 8, 2015
90,217	Keystone Profiles, Ltd	Beaver Falls, PA	January 1, 2014
90,272	Gerdau Ameristeel US Inc., Gerdau Ameristeel Corporation, BARR, Rumpca, G4S, First Class Mill, etc.	St. Paul, MN	April 2, 2015
91,090	AK Steel Corporation, Ashland Works, AK Steel Holding Corp., RMI Int'l and ESM Group, Manpower.	Ashland, KY	October 26, 2014
91,095	WestRock SP Company, Paper Solutions Division, WestRock Companies.	Newberg, OR	October 30, 2014
91,352	Noranda Aluminum, Inc., Noranda Aluminum Holding Corporation, Manpower.	New Madrid, MO	February 5, 2016
91,352A	Express Personnel and Randstad, Noranda Aluminum, Inc., Noranda Aluminum Holding Corporation.	New Madrid, MO	January 14, 2015
91,472	Freeport-McMoRan Miami, Inc., Freeport-McMoRan Corporation, 5D Mining & Construction, Inc.	Claypool, AZ	February 16, 2015

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W number	Subject firm	Location	Impact date
85,031	Iron Mountain Information Management, LLC, Iron Mountain Incorporated, Allegis Group Services, Inc.	Boston, MA	January 22, 2013
85,150	Clearwire Corporation, Sprint/United Management Company, Sprint Corporation.	Palatine, IL	March 12, 2013
85,180	Hewlett Packard, Business Processing Services-CRM, Enterprise, Volt Services Group, etc.	Boise, ID	March 26, 2013
85,228	Nilfisk-Advance, Inc., NKT Holding Group, Staffing Partners Administrative Group, etc.	Plymouth, MN	April 12, 2014
85,251	Hewlett Packard Company, Engineering Software Support Services Group, Americas Quality, etc.	Boise, ID	April 18, 2013
85,301	Citigroup Technology, Inc. (CTI), Citigroup, Inc., Global Distributed NAS Storage Operations, etc.	Warren, NJ	May 7, 2013
85,325	TATA Technologies, Inc., Interiors Group, Chrysler Technology Center (CTC).	Auburn Hills, MI	May 20, 2013
85,398	Dell USA LP, Denali, Inc., End User Computing E-Support Escalations.	Round Rock, TX	June 25, 2013
85,451	Fifth Third Mortgage Company, Wholesale Channel Division	Cincinnati, OH	July 25, 2013
85,468	Comcast Cable, Central Division Customer Care	Alpharetta, GA	August 6, 2013
85,573	MotivePower, Inc., Wabtec Corporation, Express, Volt, PMG, and SGW.	Boise, ID	September 26, 2013
85,640	Covidien LP, North American Shared Services Group	Mansfield, MA	November 10, 2013
85,721	Workers of IBM Corporation, Citibank, IBM Corporation, Service Desk, Randstad Technologies, etc.	San Antonio, TX	December 12, 2013
85,731	Sun Life Financial (U.S.) Services Company, Inc., Sun Life Inc., Adecco USA, Inc.	Wellesley Hills, MA	August 3, 2014
85,734	Magy Staffing, Magy Group	Holland, OH	December 16, 2013
85,741	Maersk Agency USA Inc., Finance Division, A.P. Moller-Maersk A/S.	Charlotte, NC	May 18, 2014
85,741A	On-Site Leased Workers from Talent Bridge, Maersk Agency USA, Inc., Finance Division, A.P. Moller-Maersk A/S.	Charlotte, NC	December 19, 2013
85,762	Advanced Ion Beam Technology, Inc	Danvers, MA	January 13, 2014
85,766	Dallas Airmotive, Inc., Premier Turbines, Inc	Neosho, MO	January 14, 2014
85,782	Flight Line Products LLC, Pirate Staffing	Valencia, CA	January 22, 2014
85,804	Convergys Corporation	Jacksonville, TX	February 2, 2014
85,808	Jones Apparel US LLC, Wise Staffing	Lawrenceburg, TN	March 22, 2014
85,811	Chancellors, Master, & Scholars, of the University of Cambridge, University of Cambridge.	West Nyack, NY	January 29, 2014
85,833	Milestone Systems, Inc., Connex International, Inc., EMEA & APAC Departments.	Burnsville, MN	February 13, 2014
85,891	Fender Musical Instruments Corporation, FMIC	Corona, CA	March 19, 2014
85,930	Teva Pharmaceuticals USA, Inc., Teva Pharmaceuticals Industries LTD.	Kutztown, PA	April 7, 2014
86,018	Intel Corporation, IT Division	Rio Rancho, NM	May 15, 2014
86,025	Watson Labs, Allergan/Actavis, Inc., Allsource, On Assignment, Lancesoft, etc.	Corona, CA	May 20, 2014
86,034	Technicolor Creative Services USA, Inc., Mastering Department, Technicolor USA, Inc.	Hollywood, CA	May 22, 2014
86,085	BlackBerry Corporation	Milford, CT	June 10, 2014
86,105	Labinal Salisbury, LLC, Labinal, LLC, Quality Staffing, Inc	Salisbury, MD	June 17, 2014
90,040	Kinze Manufacturing, Inc., Tek Systems and Baker Group	Williamsburg, IA	January 1, 2014
90,082	Lumentum Operations LLC, Lumentum Holdings Inc., JDS Uniphase, Randstad.	Bloomfield, CT	January 1, 2014
90,199	AIG PC Global Services, Inc., Fusion—Berkeley Heights	Berkeley Heights, NJ	January 1, 2014
90,213	Volvo Construction Equipment North America, LLC, Manpower, Aerotek, Kelly Services, and Randstad.	Shippensburg, PA	January 1, 2014
91,023	Motorola Mobility, LLC	Lawrenceville, GA	October 2, 2014
91,023A	Motorola Mobility, LLC, 222 West Merchandise Mart Site, Kelly OCG, Teksystems, etc.	Chicago, IL	October 2, 2014
91,023B	Motorola Mobility, LLC, 965 West Chicago Avenue Site, Kelly OCG.	Chicago, IL	October 2, 2014
91,023C	Motorola Mobility, LLC, Foxconn	Fort Worth, TX	October 2, 2014
91,023D	Motorola Mobility, LLC, Kelly OCG, Teksystems, and TATA Consultancy Services.	Plantation, FL	October 2, 2014
91,023E	Motorola Mobility, LLC, Kelly OCG, Teksystems, and TATA Consultancy Services.	Sunnyvale, CA	October 2, 2014
91,045	Higher One, Inc., High One Machines, Inc	New Haven, CT	October 9, 2014
91,057	Voya Retirement Insurance and Annuity Company, Finance and Accounting Departments, Voya Holdings, Inc.	Windsor, CT	October 16, 2014
91,072	Patriot Special Metals Inc., Employ-Temp Staffing Services	Canton, OH	May 24, 2015
91,075	Stant Romeo, Stant USA Corp., Stant Inc	Romeo, MI	October 27, 2014

TA–W number	Subject firm	Location	Impact date
91,092	One Call Care Management, Agility HR Group/Agility Staffing, Alluvion Staffing, Kelly Services, etc.	Jacksonville, FL	October 29, 2014
91,092A	One Call Care Management, Agility HR Group/Agility Staffing, Kelly Services, Express Employment, etc.	Tampa, FL	October 29, 2014
91,098	Motorola Solutions, Inc., Global Customer Documentation Group, Kelly OCG.	Schaumburg, IL	October 30, 2014
91,142	BASF Corporation, Finance Division, BASF Services Americas S.R.L., BASF SE, etc.	Florham Park, NJ	November 13, 2014
91,146	Nidec Motor Corporation, Nidec Commercial & Residential Motors Group, Nidec, Staffmark, etc.	Paragould, AR	November 16, 2014
91,166	EMPI, DJO Global, LLC, Aerotek, CFS, Princetonone, Tempforce, etc.	Shoreview, MN	November 19, 2014
91,180	Motorola Solutions, Inc., Hardware Engineering, Infrastructure Products/Systems Organization.	Schaumburg, IL	November 30, 2014
91,219	AVX Corporation, Passive Components Division, Kyocera Corporation, South Coast Networks.	Myrtle Beach, SC	December 13, 2015
91,219A	AVX Corporation, Passive Components Division, Kyocera Corporation.	Conway, SC	December 13, 2015
91,228	Johnson Controls, Hart & Cooley, Elwood Staffing	Nampa, ID	December 14, 2014
91,285	Gildan Apparel USA, Hamer Division, Anvil Knitwear (Gildan), Olsten Staffing and Total, etc.	Hamer, SC	January 5, 2015
91,316	Martel, Fluke Corporation/Danaher, Micro Tech	Derry, NH	January 7, 2015
91,339	MBDA Incorporated, MBDA UK LTD, Triad Systems International.	Camarillo, CA	January 12, 2015
91,357	WestRock Services, Inc., Paper Solutions Division, fka Rocktenn, Superior Talent Resources, Inc.	Uncasville, CT	January 15, 2015
91,377	BAE Systems Controls Inc., Electronic Systems Division, BEA Systems, Inc., ACRO Services.	Fort Wayne, IN	January 21, 2015
91,386	Belden, Nesco, Industrial Cleaning, and Monticello Tool and Die.	Monticello, KY	January 22, 2015
91,390	Kathrein Inc., Scala Division, Kathrein Holding USA, Express Employment Professionals.	Medford, OR	June 3, 2016
91,399	INVISTA S.a.r.l., Adipic Acid Unit, Koch Industries, Innovative Turnaround Controls Ltd, etc.	Orange, TX	January 27, 2015
91,423	Heraeus Materials Technology North America, Heraeus Holding GMBH.	Chandler, AZ	April 13, 2015
91,423A	Intuitive HRO LLC, Heraues Materials Technology North America, Heraeus Holding GMBH.	Chandler, AZ	February 2, 2015
91,427	The Babcock & Wilcox Company	West Point, MS	February 2, 2015
91,440	dlhBOWLES, FNA DLH Industries, Inc., @Work Personnel Services.	Bristol, TN	February 4, 2015
91,442	Sulzer Pumps (US) Inc., Pumps Equipment Division, Link Staffing and Snell Staffing.	Brookshire, TX	February 5, 2015
91,451	Metro Paper Industries of NY Inc., Metro Paper Industries Tissue Group, Kelly Services, Penski, Inc.	Carthage, NY	February 9, 2015
91,453	Rexnord Industries LLC, Express Employment, Tech USA, Randstad, Randstad Engineering.	Clinton, TN	February 10, 2015
91,479	Clover Technologies Group, LLC, Environmental Reclamation Services Division, Career Concepts.	Erie, PA	February 17, 2015
91,502	Eaton Corporation, Bartech Group	Berea, OH	February 22, 2015
91,503	Heil Trailer International, Co., American Industrial Partners, Onin Staffing and Smith Personnel.	Rhome, TX	February 22, 2015
91,538	Campbell Soup Company, Deductions and Trade Payments Team, Global Transaction Services, etc.	Camden, NJ	June 18, 2015
91,556	Bradken, Inc., Engineered Products Division, Bradken Limited	St. Joseph, MO	March 4, 2015
91,586	Maersk Agency USA, Inc., Customer Service Department	The Woodlands, TX	March 11, 2015

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W number	Subject firm	Location	Impact date
86,112	Avantor Performance Materials, Inc., Kelly Services and Hamilton Ryker.	Paris, KY	June 22, 2014
91,154	Allen Logging Company	Forks, WA	November 17, 2014
91,254	Idea Drilling, LLC, First Drilling, LLC	Virginia, MN	December 21, 2014
91,287	Austin Powder Company, Austin Powder Holdings, Viking Explosives & Supply Inc.	Hibbing, MN	January 5, 2015
91,321	Nelson Williams Linings, Inc	Mt. Iron, MN	January 8, 2015

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W number	Subject firm	Location	Impact date
90,123	Lake Terminal Railroad Company, Transtar, Inc	Lorain, OH	January 1, 2014
91,268	Wisconsin Central Ltd., Grand Trunk Corporation (GTC)	Duluth, MN	December 29, 2014

The following certifications have been issued. The requirements of Section 222(e) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W number	Subject firm	Location	Impact date
91,593	Alexander & Baldwin, LLC, Hawaiian Commercial and Sugar Company, Exceptional, DBA Employers Options.	Puunene, HI	November 16, 2014

Negative Determinations For Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1) or (b)(1) (employment decline or threat of separation) of section 222 has not been met.

TA–W number	Subject firm	Location	Impact date
85,057	Hyosung USA, Inc., Utica Plant, Hyosung Holdings USA, Inc	Utica, NY	
85,119	Hewlett Packard Company, GSD Supplier and Sourcing, Enterprise Group.	Palo Alto, CA	
85,148	Laserwords U.S. Inc., Maine Division, Laserwords Pvt. Ltd., SPI Global.	Lewiston, ME	
85,222	Air System Components, Inc., Building Products Division	Ponca City, OK	
85,232	Dex Media, Inc., Formerly Known as Supermedia, LLC	Erie, PA	
85,251A	Hewlett Packard Company, Data Analysis Group, Americas Quality and CA, etc.	Boise, ID	
85,251B	Hewlett Packard Company, Americas Supply Chain, Consumer Retail Channel Support, etc.	Boise, ID	
85,273	Destination Rewards, Inc., Deluxe Financial Services, LLC, Quality Assurance Department.	Boca Raton, FL	
85,278	Swan Dyeing and Printing Corporation	Fall River, MA	
85,296	ArcSoft, Inc., Customer Support Department	Fremont, CA	
85,393	Chemtura Corporation	West Lafayette, IN	
85,549	Humana, Finance Department, Disbursements, GenPact International.	Louisville, KY	
91,018	Technicolor Connected Home USA LLC, CDI Corporation	Indianapolis, IN	
91,331	Motion Industries	Mountain Iron, MN	

The investigation revealed that the criteria under paragraphs (a)(2)(A)(i) (decline in sales or production, or both) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W number	Subject firm	Location	Impact date
85,362	Catawissa Wood and Components, Inc., Panneaux Maski, Inc	Elysburg, PA	
91,375	J.V. Industrial Companies, Ltd	Skiatook, OK	
91,394	SweetWorks Confections, LLC, A Chocolate Frey Company, Remedy Intelligent Staffing.	Buffalo, NY	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W number	Subject firm	Location	Impact date
85,004	Resorts World Casino	Queens, NY	
85,010	The Smithfield Packing Company, Incorporated, Smithfield Foods, Inc., Accountemps, Corestaff, Randstad.	Landover, MD	
85,015	Leviton Manufacturing Company, Inc., Plant 22	West Jefferson, NC	
85,037	Honeywell, Aerospace Division, Aerotek, Manpower, Nesco, and PDS Tech.	Irving, TX	

TA–W number	Subject firm	Location	Impact date
85,045	I2S, LLC, American Metals Processing, Inc., Accountemps, Monroe Staffing, etc.	Yalesville, CT	
85,050	Carthage Area Hospital, Critical Care Unit	Carthage, NY	
85,051	VEC Technology, LLC, J&D Holdings, LLC	Greenville, PA	
85,062	Computer Sciences Corporation, Raytheon Corporation, Space and Airborne Systems.	El Segundo, CA	
85,067	FLSmidth USA, Inc., Material Handling Business Unit, Engineering Dept., Humanix, Volt, etc.	Meridian, ID	
85,068	GE Hitachi Nuclear Energy, General Electric Company	Canonsburg, PA	
85,069	Allstate Insurance (Allstate), The Allstate Corporation, Allstate Technology & Operations (ATO), etc.	Roanoke, VA	
85,077	Caterpillar, Inc., Integrated Manufacturing Operations Division (IMOD), Volt Workforce Sol.	Pulaski, VA	
85,083	Transtrade Operators, Inc., Transtrade Brokers, Nextemp, Texas Lonestar Staffing, Accounting Now, etc.	DFW Airport, TX	
85,107	Honeywell Federal Manufacturing & Technologies LLC, Honeywell International, Inc.	Kansas City, MO	
85,112	UL, LLC, Underwriters Laborators Inc	Melville, NY	
85,121	Roseburg Forest Products Company, Riddle Plywood Division, Selectemp.	Riddle, OR	
85,127	Mid-Atlantic Manufacturing & Hydraulics, Inc., Swanson Industries, Manpower.	Rural Retreat, VA	
85,131	Mitsubishi Nuclear Energy Systems, Inc	Irving, TX	
85,174	AT&T Corp., Home Solutions (Value), 1500 Penn Avenue	Pittsburgh, PA	
85,181	Innovative Hearth Products, LLC, Innovative Hearth Holdings, LLC.	Union City, TN	
85,229	Trane U.S., Inc., Ingersoll Rand	La Crosse, WI	
85,231	Convergys, Aerotek	Denver, CO	
85,264	Cloud Cap Technology, Inc., United Technologies Corp	Hood River, OR	
85,274	Eternal Fortune Fashion LLC, Ladies Division	New York, NY	
85,287	Quad/Graphics Marketing, LLC, Marengo Division, Quad/Graphics, Inc., Labor Ready Midwest, Inc., Manpower.	Marengo, IA	
85,291	ProLogix Distribution Services, East, Jim Pattison Group (JPG)	Spring Arbor, MI	
85,331	Music Group Services US, Marketing Department	Bothell, WA	
85,375	Caterpillar, Inc., Global Mining Sales and Support Division, Pearisburg Rebuild and Repair Ops.	Pearisburg, VA	
85,387	John Deere Harvester Works, Deere & Company	East Moline, IL	
85,396	Fabricast Valve, LLC, American Work Force, Express Services, Inc., Total Employment & Management.	Longview, WA	
85,433	Wolff Fording and Company, Partnership Staffing	Richmond, VA	
85,462	Microsoft Corporation, Xbox Entertainment Studio	Santa Monica, CA	
85,467	Electrolux Home Care Products, Inc., Distribution Center	El Paso, TX	
85,538	Centurylink, Inc., Business Service Delivery and Operations Customer Care Organization, etc.	Seattle, WA	
85,555	Artic Timber, Inc	Cosmopolis, WA	
85,562	Gleason Clay Company LLC	Gleason, TN	
85,575	AMFIRE Mining Company, LLC, Alpha Natural Resources, Inc., David Stanley Consultants, LLC.	Portage, PA	
85,579	Keystone Weaving Mills, Inc., Unitemp	Lebanon, PA	
85,581	AT&T Mobility Services LLC, AT&T Technology Operations—Mobility Network Reliability Center, AT&T Inc.	Morristown, NJ	
85,585	AGCO	Beloit, KS	
85,585A	AGCO	Hesston, KS	
85,589	Original Chili Bowl, Windsor Foods	Tulsa, OK	
85,677	Hitachi Zosen Catalyst USA, LLC, Hitachi Zosen Group Companies, Surge Staffing.	Scottsboro, AL	
85,693	Green Creek Wood Products LLC, Express Personnel, Grays Harbor Saw Services, Laborworks Industrial.	Port Angeles, WA	
85,719	Mastercraft Specialties Inc	Red Lion, PA	
85,720	Xerox Commercial Solutions, LLC, Utah Healthcare Division	Kennett, MO	
85,790	Corsa Coal Corporation, PBS Coals Limited/Rox Coal, Inc., Weyant Trucking, LLC.	Friedens, PA	
85,816	Weir Slurry Group, Inc., Weir Minerals, Weir Hazleton, Inc., OneSource Staffing.	Hazleton, PA	
85,881	Nabors Completion & Services Company, C&J Energy Services, Ltd.	Gaylord, MI	
85,956	Cameron International Corporation, Measurement Division	Duncan, OK	
85,988	Next IT Corporation	Spokane, WA	
86,010	Convergys Corporation	Pharr, TX	
86,020	Harsco Corporation, DBA Harsco Industrial Air-X-Changers, Aerotech Employment Agency, etc.	Catoosa, OK	
86,022	Oil States Energy Services LLC, Oil States Management, Inc	Canonsburg, PA	
86,024	Chart, Chart Industries, Inc., Distribution & Storage Division, Aerotek, Inc.	Owatonna, MN	

TA–W number	Subject firm	Location	Impact date
86,024A	Chart, Chart Industries, Inc., Distribution & Storage Division, Aerotek, Inc.	New Prague, MN	
86,041	L.A. Darling Company, Wood Division, Marmon Group, Berkshire Hathaway, People Resource, etc.	Piggott, AR	
86,045	Riley Gear Corporation	North Tonawanda, NY	
86,059	OGCI Training, Inc., 2930 South Yale Avenue, Rowland Group, LLC.	Tulsa, OK	March 16, 2016
86,059A	OGCI Training, Inc., 7218 East 38th Street, Rowland Group, LLC.	Tulsa, OK	
86,090	CoorsTek Inc., CoorsTek Technical Ceramics Company, PeopleSource.	Tulsa, OK	
86,098	Mattel, Inc., Product Development Department, Pro Unlimited	El Segundo, CA	
86,111	Seattle Snohomish Sawmill Co. Inc., Riverside Lumber, Labor Ready.	Snohomish, WA	
86,113	Soo Tractor LLC	Sioux City, IA	
86,118	Wood Group Production & Consulting Services, Inc., Wood Group, PSN.	Farmington, NM	
86,119	FracMaster, LLC	Farmington, NM	
86,124	EH Wachs, Illinois Tool Works, Manpower	Lincolnshire, IL	
90,014	Kinedyne LLC, Manpower	Lawrence, KS	
90,033	AT&T Telecommunications Relay Services, Relay Operations	New Castle, PA	
90,127	Halliburton	Homer City, PA	
90,132	Flint Energy Services, Inc., AECOM	Tulsa, OK	
90,160	Baker Hughes Incorporated, Pressure Pumping Division	Clinton, OK	
90,175	Universal Well Services, Inc	Bradford, PA	
90,194	Stomaco Energy Services, Inc., 3203 Industrial Boulevard	Kilgore, TX	
90,220	C&J Well Services, Inc., Formerly known as Nabors Completion and Production.	El Reno, OK	March 8, 2016
90,307	Sabine Oil and Gas Corporation, Forest Oil Corporation	Denver, CO	
90,339	Verizon Corporate Resources Group, LLC—Finance Operations.	Cedar Rapids, IA	
91,033	Precision Energy Services, Inc., Weatherford International	Muncy, PA	
91,089	Onsite Oil Tools, LLC	Yukon, OK	
91,265	Rosebud Mining Company	Kittanning, PA	

Determinations Terminating Investigations Of Petitions For Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W number	Subject firm	Location	Impact date
85,856	Norwich Pharmaceutical, Inc., Alvogen Group, Staffworks, Aerotek Scientific.	Norwich, NY	
86,056	Longview Fibre Paper and Packaging, Inc., Kapstone Paper and Packaging Corporation, Mill Division, etc.	Longview, WA	
91,397	Southwestern Energy Company	Conway, AR	
91,422	Allegheny Technologies Incorporated, Flat Rolled Products	Washington, PA	
91,434	Omak Wood Products LLC	Omak, WA	
91,435	Allegheny Technologies Incorporated Allvac, Specialty Materials.	Lockport, NY	
91,446	Hologic	Bedford, MA	
91,448	Jewel Acquisition, LLC, ATI Flat Rolled Products, Allegheny Technologies Incorporated.	Louisville, OH	
91,449	Digital Intelligence Systems	Tampa, FL	
91,466	Allegheny Technologies Incorporated	New Bedford, MA	
91,467	Allegheny Technologies Incorporated, Flat Rolled Products	Natrona Heights, PA	
91,468	Allegheny Technologies Incorporated, Flat Rolled Products	Vandergrift, PA	
91,487	Rex Energy Corporation	Bridgeport, IL	

The following determinations terminating investigations were issued in cases where these petitions were not filed in accordance with the requirements of 29 CFR 90.11. Every petition filed by workers must be signed by at least three individuals of the petitioning worker group. Petitioners separated more than one year prior to the date of the petition cannot be covered under a certification of a petition under Section 223(b), and therefore, may not be part of a petitioning worker group. For one or more of these reasons, these petitions were deemed invalid.

TA–W number	Subject firm	Location	Impact date
90,189	Runnells Specialized Hospital	Berkeley Heights, NJ	

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W number	Subject firm	Location	Impact date
85,425	Intrepid Potash Inc., Intrepid Potash, LLC-New Mexico, LLC–MOAB Delaware, LLC-Wendover, etc.	Carlsbad, NM	
86,030	Goodman Networks, Inc., Core Network Engineering (Deployment Engineering) Division.	Plano, TX	
86,049	California Redwood Company, Brainard Division, Green Diamond Resource Company, etc.	Eureka, CA	
91,032	Motorola Mobility, LLC, 222 West Merchandise Mart Plaza, #1800.	Chicago, IL	
91,032A	Motorola Mobility, LLC	Plantation, FL	
91,158	Motorola Mobility	Fort Worth, TX	
91,308	Seagate Technology, LLC	Shrewsbury, MA	
91,395	Capital One US Card Operations, Capital One Services II LLC and Capital One Services, LLC.	Tigard, OR	

The following determinations terminating investigations were issued because the petitions are the subject of ongoing investigations under petitions filed earlier covering the same petitioners.

TA–W number	Subject firm	Location	Impact date
91,294	ESM Group Inc	Ashland, KY	
91,613	Microfibres, Inc	Winston-Salem, NC	

I hereby certify that the aforementioned determinations were issued during the period of *February 29, 2016 through March 25, 2016.* These determinations are available on the Department's Web site *https://www.doleta.gov/tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations. or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC this 1st day of April 2016.

Jessica R. Webster,

Certifying Officer, Office of Trade Adjustment Assistance,

[FR Doc. 2016–09550 Filed 4–25–16; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Secretary, DOL.

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Workforce Innovation and Opportunity Act Common Performance Reporting

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) proposal titled, "Workforce Innovation and Opportunity Act Common Performance Reporting," to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before May 26, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201604-1205-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor–OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks PRA authority for the Workforce Innovation and Opportunity Act (WIOA) Common Performance Reporting information collection that fulfills WIOA section 116(d)(1) requirements for the development of report templates for the State Performance Report for WIOA core programs, the Local Area Performance Report, and the Eligible Training Provider (ETP) Report (Display-Only). *See* 29 U.S.C. 3141(d)(1). A proposed design for the public facing display of the ETP Performance Report is also included in this ICR. While not proposing a format that persons participating in WIOA covered programs must follow, as these process decisions may be best left to State agencies that may have additional needs, the ICR does recognize that performance reporting may require the collection of information that would not otherwise be obtained; consequently, the agencies have estimated the impact of those activities on individuals and States. WIOA section 185 authorizes this information collection. *See* 29 U.S.C. 3245.

This ICR does not include the specifics on the data collection format (*e.g.*, a spreadsheet, comma delimited text file, or other application program interface) that must be used to submit the data to the DOL (*e.g.*, through an online portal). That feature will be the subject of a future ICR, and public comment will be solicited at that time.

This ICR is being submitted to OMB for review, comment, and approval under a process that will subsequently allow other agencies to use this ICR. The Department of Education is also engaged in the collection of WIOA performance data, and the two Departments have worked collaboratively to develop this ICR. In accordance with the PRA and guidance provided by OMB for common form types of collections used by more than one agency, Reginfo.gov database burden information is to reflect that only for host agency (DOL in this case) when the collection is first submitted; consequently, this notice also reflects only the DOL burden. In order to present a more complete view for public comment, however, the supporting statement discusses total burdens—including that for the Department of Education. Under the common form data collection type, the DOL burden must first be approved by OMB with other agency burden added by OMB through a change request process once the common form has been cleared.

This proposed information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notices published in the **Federal Register** on April 16, 2015 (80 FR 20573), and July 22, 2015 (80 FR 43474).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB ICR Reference Number 201604–1205–002.

While comments on any aspect of this ICR are welcome, specific comments are sought on ETP terms definitions and corresponding calculations of WIOA performance measures as they relate to the ETP report. Comments are also sought on the proposed method for calculating the total number of individuals served in a program of study. The OMB is also particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Workforce Innovation and Opportunity Act Common Performance Reporting.

OMB ICR Reference Number: 201604–1205–002.

Affected Public: State, Local, and Tribal Governments; Individuals or Households.

Total Estimated Number of Respondents: 15,489,620.

Total Estimated Number of Responses: 30,969,570.

Total Estimated Annual Time Burden: 7,965,526 hours.

Total Estimated Annual Other Costs Burden: $25,848,060.

Dated: April 20, 2016.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2016–09637 Filed 4–25–16; 8:45 am]

BILLING CODE 4510–FN–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 15–CRB–0010–CA]

Adjustment of Cable Statutory License Royalty Rates

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Notice announcing partial settlement and commencement of further proceedings on the issue of a proposed Sports Rule Surcharge, with request for further petitions to participate.

SUMMARY: The Copyright Royalty Judges (Judges) announce partial settlement of the proceeding to adjust the rates for the cable statutory license described in section 111 of the Copyright Act (Rate Adjustment Proceeding). The Judges also announce commencement of further proceedings resulting from action by the Federal Communications Commission (FCC) effecting a change in the Sports Rule. Any party that has filed a Petition to Participate in the present proceeding may file a Notice of Intent to Participate in the Sports Rule Surcharge portion of the proceeding without payment of a further filing fee. Any other party in interest wishing to participate in the Sports Rule Surcharge portion of the proceeding must file its Petition to Participate and pay the $150 filing fee.

DATES: Petitions to Participate and the filing fee are due no later than May 26, 2016.

ADDRESSES: This notice and request is posted on the agency's Web site (*www.loc.gov/crb*) and on Regulations.gov (*www.regulations.gov*). Parties who plan to participate should see the "How to Submit Petitions to Participate" sub-section of the Supplementary Information section below for physical addresses and further instructions.

FOR FURTHER INFORMATION CONTACT: Kimberly Whittle, Attorney-Advisor, by telephone at (202) 707–7658, or by email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 111 of the Copyright Act grants a statutory copyright license to cable television systems for the retransmission of over-the-air television and radio broadcast stations to their subscribers. 17 U.S.C. 111(c). In exchange for the license, cable operators submit royalty payments and statements of account detailing their retransmissions semiannually to the

Copyright Office. 17 U.S.C. 111(d)(1). The Copyright Office deposits the royalties into the United States Treasury for later distribution to copyright owners of the broadcast programming that the cable systems retransmit. 17 U.S.C. 111(d)(2).

A cable system calculates its royalty payments in accordance with the statutory formula described in 17 U.S.C. 111(d)(1). Royalty rates are based upon a cable system's gross receipts from subscribers who receive retransmitted broadcast signals. For rate calculation purposes, cable systems are divided into three tiers based on their gross receipts (small, medium, and large). 17 U.S.C. 111(d)(1)(B) through (F). Both the applicable rates and the tiers are subject to adjustment. 17 U.S.C. 801(b)(2).

Every five years persons with a significant interest in the royalty rates may file petitions to initiate a proceeding to adjust the rates. 17 U.S.C. 804(a) and (b). No person with a significant interest filed a petition to initiate a proceeding in 2015.[1] Therefore, the Copyright Royalty Judges (Judges) initiated this rate adjustment proceeding relating to statutory licenses for the distant retransmission by cable systems of over-the-air broadcast radio and television programming. *See* 17 U.S.C. 801(b)(2), 803(b)(1), 804(a) and (b), by notice published in the **Federal Register** on June 19, 2015.

The Judges received two joint Petitions to Participate, one from a group referring to itself as Phase I Parties[2] and another from the National Cable & Telecommunications Association and the American Cable Association. The Judges accepted these petitions and commenced a Voluntary Negotiation Period (VNP).

On November 23, 2015, the Joint Sports Claimants[3] filed a "Petition . . . to Initiate Cable Royalty Rate Adjustment Proceedings" with a self-styled caption indicating a proceeding for cable rate adjustments "for Retransmission of Certain Sports Telecasts." On December 15, 2015, at the conclusion of the VNP, all participants, including the Joint Sports Claimants, notified the Judges of a global settlement and asked that cable retransmission rates remain unchanged for the rate period 2015 to 2019, inclusive. Given the conflicting positions of the Joint Sports Claimants, the Judges rejected the proposed global settlement, without prejudice.

Settling participants have now asked that the Judges accept the negotiated settlement as a "partial settlement" and permit continuing proceedings to determine whether and to what degree to make a rate adjustment under section 801(b)(2)(C). Section 801(b)(2)(C) provides for adjustment proceedings[4] in the event of an FCC rule change "with respect to . . . sports program exclusivity. . . ." The Joint Sports Claimants base their separate petition on an FCC rule change, *viz.*, repeal of the sports exclusivity rule, effective November 24, 2014.

The Judges give this notice and opportunity for additional parties to file a Petition to Participate in the extant proceeding. The Judges shall continue the proceeding solely for determination of what rate adjustment, if any, should result from the FCC rule change. According to the Act, any adjustment resulting from the remainder of this proceeding shall be limited to those broadcast signals carried on systems affected by the FCC rule change. *See* 17 U.S.C. 801(b)(2)(C).

How To Submit Petitions to Participate

Any party that has filed a Petition to Participate in the present proceeding need only file a Notice of Intent to Participate in the Sports Rule Surcharge portion of the proceeding. Any other party wishing to participate in the proceeding to determine a Sports Rule Surcharge adjustment to the cable royalty rate shall submit to the Copyright Royalty Board the filing fee (US $150), an original Petition to Participate, five paper copies, and an electronic copy on a CD or other portable memory device in Portable Document Format (PDF) that contains searchable, accessible text (not a scanned image of text). Participants should conform filed electronic documents to the Judges' Guidelines for Electronic Documents posted online at *www.loc.gov/crb/docs/Guidelinesfor_Electronic_Documents.pdf.* Participants shall deliver Petitions to Participate to only one of the following addresses.

U.S. mail: Copyright Royalty Board, PO Box 70977, Washington, DC 20024–0977; or

Overnight service (only USPS Express Mail is acceptable): Copyright Royalty Board, PO Box 70977, Washington, DC 20024–0977; or

Commercial courier: *Address package to:* Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM–403, 101 Independence Avenue SE., Washington, DC 20559–6000. *Deliver to:* Congressional Courier Acceptance Site, 2nd Street NE. and D Street NE., Washington, DC; or

Hand delivery: Library of Congress, James Madison Memorial Building, LM–401, 101 Independence Avenue SE., Washington, DC 20559–6000.

Dated: April 20, 2016.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2016–09635 Filed 4–25–16; 8:45 am]

BILLING CODE 1410–72–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2016–027]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize agencies to preserve records of continuing value in the National Archives of the United States and to destroy, after a specified period, records lacking administrative, legal, research, or other value. NARA publishes notice for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: NARA must receive requests for copies in writing by May 26, 2016. Once NARA completes appraisal of the records, we will send you a copy of the schedule you requested. We usually prepare appraisal memoranda that contain additional information concerning the records covered by a proposed schedule. You may also request these. If you do, we will also provide them once we have completed the appraisal. You have 30 days after we send these requested documents in which to submit comments.

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[1] The cable rates were last adjusted in 2005. Although the Judges commenced a rate proceeding relating to the 2010 rate adjustment, the Judges terminated it when passage of the Satellite Television Extension and Localism Act of 2010, Pub. L. 111–175, rendered the proceeding unnecessary. *Order Granting Request to Terminate Proceeding,* Docket No. 2010–1 CRB Cable Rate (July 13, 2010).

[2] The Phase I Parties consist of: Program Suppliers, Joint Sports Claimants, Public Television Claimants, Commercial Television Claimants, Music Claimants, Canadian Claimants Group, National Public Radio, and Devotional Claimants.

[3] The Joint Sports Claimants consist of: The National Basketball Association, the National Collegiate Athletic Association, the National Football League, the National Hockey League, the Office of the Commissioner of Baseball, and the Women's National Basketball Association.

[4] Sports program exclusivity proceedings may be conducted apart from the quinquennial proceedings required by § 804 of the Act.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Appraisal and Agency Assistance (ACRA) using one of the following means:

Mail: NARA (ACRA); 8601 Adelphi Road; College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

Fax: 301–837–3698.

You must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and a mailing address. If you would like an appraisal report, please include that in your request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, by mail at Records Appraisal and Agency Assistance (ACRA); National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001, by phone at 301–837–1799, or by email at *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year, Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. These schedules provide for timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless otherwise specified. An item in a schedule is media neutral when an agency may apply the disposition instructions to records regardless of the medium in which it has created or maintains the records. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No agencies may destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after a thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value.

In addition to identifying the Federal agencies and any subdivisions requesting disposition authority, this notice lists the organizational unit(s) accumulating the records or that the schedule has agency-wide applicability (in the case of schedules that cover records that may be accumulated throughout an agency), provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction), and includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it also includes information about the records. You may request additional information about the disposition process at the addresses above.

Schedules Pending

1. Department of Agriculture, Farm Service Agency (DAA–0161–2015–0003, 1 item, 1 temporary item). Commodity Credit Corporation records consisting of master files of an electronic information system used to support the grain inventory and miscellaneous commodity inventory.

2. Department of Agriculture, Farm Service Agency (DAA–0145–2015–0012, 1 item, 1 temporary item). Master files of an electronic information system used to track, process, collect, and report cash receipts.

3. Department of Defense, Defense Information Systems Agency (DAA–0371–2014–0006, 3 items, 3 temporary items). Records related to awards and assignments for agency personnel.

4. Department of Defense, Defense Information Systems Agency (DAA–0371–2014–0008, 3 items, 3 temporary items). Records relating to the test and evaluation of electronic information systems.

5. Department of Defense, Defense Logistics Agency (DAA–0361–2015–0005, 9 items, 8 temporary items.) Administrative records common to all offices including reference materials, meeting and visit records, delegations of authority, and routine correspondence. Proposed for permanent retention are high-level correspondence and command oversight files.

6. Department of Defense, Defense Threat Reduction Agency (DAA–0374–2014–0006, 1 item, 1 temporary item). Records relating to policy letters on administrative operations and services.

7. Department of Defense, Defense Threat Reduction Agency (DAA–0374–2014–0037, 1 item, 1 temporary item). Records related to quality control of system components under agency oversight.

8. Department of Defense, Defense Threat Reduction Agency (DAA–0374–2014–0040, 1 item, 1 temporary item). Records related to the preparation and revision of supply standards.

9. Department of Defense, Defense Threat Reduction Agency (DAA–0374–2014–0041, 1 item, 1 temporary item). Records related to agency oversight of specific Department of Defense standards including standardization actions, indexing, plans, and related records.

10. Department of Energy, Agency-wide (DAA–0434–2015–0013, 2 items, 2 temporary items). Records related to foreign ownership and eligibility determinations of potential contractors.

11. Department of Health and Human Services, Administration for Children and Families (DAA–0292–2016–0006, 12 items, 9 temporary items). Records related to Federal grant programs, including penalty determinations and resolutions, regulation files, briefing materials, and court case files. Proposed for permanent retention are final data reports, policy files, and publications.

12. Department of Health and Human Services, Administration for Children and Families (DAA–0292–2016–0009, 2 items, 1 temporary item). Office-level delegations of authority records. Proposed for permanent retention are delegations of authority for senior management staff.

13. Department of Homeland Security, United States Citizenship and Immigration Services (DAA–0566–2016–0004, 8 items, 8 temporary items). Applications, petitions, and requests for a re-entry permit, refugee travel document, or advance parole travel document.

14. Department of Homeland Security, United States Citizenship and Immigration Services (DAA–0566–2016–0011, 10 items, 10 temporary items). Applications, petitions, and supporting materials used by organizations to apply for authorization to issue certificates to health care workers.

15. Department of Justice, Federal Bureau of Investigation (DAA–0065–2015–0001, 2 items, 1 temporary item). Records used to prepare briefings for agency executives. Proposed for permanent retention are records related to National Security Council meeting participation.

16. Department of Justice, Federal Bureau of Investigation (DAA–0065–2015–0006, 1 item, 1 temporary item). Records related to FOIA request processing and administration that include general administrative files, staff training, a sample of 500 FOIA case files, and records related to a 1978 GAO audit, and a case litigated before the Supreme Court.

17. Federal Communications Commission, International Bureau (DAA–0173–2015–0009, 2 items, 2 temporary items). Records include annual reports submitted by service providers for international services and statistics derived from those reports.

18. Federal Communications Commission, Wireline Competition Bureau (DAA–0173–2016–0009, 1 item, 1 temporary item). Records include official tariffs and associated documents submitted by local exchange carriers.

19. National Archives and Records Administration, Government-wide (DAA–GRS–2016–0006, 1 item, 1 temporary item). A revision to the General Records Schedule for general ethics program records.

20. Peace Corps, Office of Strategic Partnerships (DAA–0490–2016–0008, 1 item, 1 temporary item). Records of the Office of Gifts and Grants Management related to private donations used to fund volunteer projects.

Laurence Brewer,

Director, Records Management Operations.

[FR Doc. 2016–09544 Filed 4–25–16; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

National Transportation Safety Board Forum

The National Transportation Safety Board (NTSB) will hold a 1-day forum to discuss the risks posed to pedestrians by highway travel. The event, “Pedestrian Safety,” will be held from 9 a.m. to 4:30 p.m. ET on May 10, 2016, in Washington, DC.

While the overall number of highway deaths has been decreasing in recent years, the number of pedestrian fatalities on public roads has increased 19 percent over the past 5 years. Estimates for 2015 pedestrian fatalities indicate that they may have been 10 percent higher than those in 2014. The NTSB meeting will provide an overview of pedestrian fatalities and injuries, and it will consider what data are needed to understand and address this growing safety problem. Unlike many highway projects that are federally funded and administered by states, many pedestrian infrastructure projects are managed at the urban and local levels. The forum will consider policy efforts to implement complete streets designed for all users. The forum will also consider highway design countermeasures intended to improve pedestrian safety. Vehicle technologies that can enhance pedestrian safety by mitigating or avoiding crashes will also be discussed.

The forum will feature presentations by urban planners, highway engineers, transportation policy advocates, and public health interests. Inquiries about the forum can be directed to *pedestriansafety@ntsb.gov.* The event will be held in the NTSB Board Room and Conference Center, located at 429 L'Enfant Plaza SW., Washington, DC. The forum is free and open to the public. Those intending to attend should register at *www.ntsb.gov/pedestriansafety.* In addition, the forum can be viewed via webcast here: *http://ntsb.capitolconnection.org/.* Several days after the conclusion of the forum, an archived webcast of it will be posted on the NTSB Web site and will be available for 90 days.

If you wish to obtain a copy of the forum webcast, please contact the NTSB Records Management Division at 202–314–6551 or 800–877–6799. You may also request this information from the NTSB Web site or by writing to the following address: National Transportation Safety Board, Records Management Division (CIO–40), 490 L'Enfant Plaza SW., Washington, DC 20594.

Individuals requiring reasonable accommodation and/or wheelchair access directions should contact Rochelle Hall at 202–314–6305 or by email at *Rochelle.Hall@ntsb.gov* by May 4, 2016.

NTSB Media Contact: Christopher O'Neil—*christopher.oneil@ntsb.gov.*

NTSB Forum Manager: Deborah Bruce—*bruced@ntsb.gov.*

Dated: April 21, 2016.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2016–09660 Filed 4–25–16; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–390; NRC–2016–0075]

Completion Date of Cyber Security Plan Implementation Milestone 8; Tennessee Valley Authority; Watts Bar Nuclear Plant, Unit 1; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to comment, request a hearing, and petition for leave to intervene; order; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a notice that was published in the **Federal Register** (FR) on April 19, 2016, regarding issuance of an amendment to Facility Operating License No. NPF–90, issued to the Tennessee Valley Authority, for operation of the Watts Bar Nuclear Plant, Unit 1. This action is necessary to correct an NRC docket ID number that was listed incorrectly.

DATES: The correction is effective April 26, 2016.

ADDRESSES: Please refer to Docket ID NRC–2016–0075 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0075. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select *“ADAMS Public Documents”* and then select *“Begin Web-based ADAMS Search.”* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Robert Schaaf, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory

Commission, Washington DC 20555–0001; telephone: 301–415–6020, email: *Robert.Schaaf@nrc.gov.*

SUPPLEMENTARY INFORMATION:

In the FR on April 19, 2016, in FR Doc. 2016–09042, on page 23011, in the second column, the third line of the heading, correct "NRC–2016–0076" to read "NRC–2016–0075." On the same page, in the third column, correct the following:

- The sixth line, correct "NRC–2016–0076" to read "NRC–2016–0075";
- the fourth line after the **SUPPLEMENTARY INFORMATION** section heading, correct "NRC–2016–0076" to read "NRC–2016–0075"; and
- the twelfth line after the **SUPPLEMENTARY INFORMATION** section heading, correct "NRC–2016–0076" to read "NRC–2016–0075."

On page 23012, in the first column, the fourth line, correct "NRC–2016–0076" to read "NRC–2016–0075."

Dated at Rockville, Maryland, this 21st day of April 2016.

For the Nuclear Regulatory Commission.

Cindy Bladey,

Branch Chief, Rules, Announcements and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 2016–09682 Filed 4–25–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0083]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from March 29 to April 11, 2016. The last biweekly notice was published on April 12, 2016.

DATES: Comments must be filed by May 26, 2016. A request for a hearing must be filed by June 27, 2016.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0083. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Janet Burkhardt, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1384, email: *Janet.Burkhardt@nrc.gov.*

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0083 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0083.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section of this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0083, facility name, unit number(s), application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov,* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions To remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies and procedures.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii). If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by June 27, 2016. The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that under § 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish, or is not qualified, to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by June 27, 2016.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail at of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, in some instances, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the "Obtaining Information and Submitting Comments" section of this document.

NextEra Energy, Point Beach, LLC, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: January 15, 2016. A publicly-available version is in ADAMS under Accession No. ML16015A112.

Description of amendment request: The amendments would revise the technical specifications (TSs) for Point Beach Nuclear Plant, Units 1 and 2. The proposed change eliminates TS 3.7.14, "Primary Auxiliary Building Ventilation (VNPAB)," in its entirety on the basis that the VNPAB is not credited for accident mitigation and meets none of the criteria of 10 CFR 50.36 for inclusion in the TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not impact the physical configuration or function of plant structures, systems, or components (SSCs) or the manner in which SSCs are operated, maintained, modified, tested, or inspected. No actual facility equipment or accident analyses are affected by the proposed changes.

The control room dose analysis for a loss of coolant accident using alternate source term (AST) initially credited operation of the VNPAB exhaust system. However, the analysis was subsequently revised to remove credit for the VNPAB prior to NRC final approval of implementation of AST. As a result, NextEra is proposing to remove the VNPAB system from the TS. The VNPAB system is not an initiator of accidents and does not function to mitigate the consequences of DBAs [design-basis accidents].

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). The proposed change does not create any new failure modes for existing equipment or any new limiting single failures. Additionally, the proposed change does not involve a change in the methods governing normal plant operation, and all safety functions will continue to perform as previously assumed in the accident analyses. Thus, the proposed change does not adversely affect the design function or operation of any structures, systems, and components important to safety.

No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed change. The proposed change does not challenge the performance or integrity of any safety-related system.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The margin of safety associated with the acceptance criteria of any accident is unchanged. The proposed change will have no [effect] on the availability, operability, or performance of safety-related systems and components. The proposed change will not adversely affect the operation of plant equipment or the function of equipment assumed in the accident analysis.

The proposed amendment does not involve changes to any safety analyses assumptions, safety limits, or limiting safety system settings. The changes do not adversely impact plant operating margins or the reliability of equipment credited in the safety analyses.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William Blair, Managing Attorney—Nuclear, Florida Power & Light Company, P.O. Box 14000, 700 Universe Boulevard, Juno Beach, FL 33408–0420.

NRC Branch Chief: David J. Wrona.

NextEra Energy, Point Beach, LLC, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: February 12, 2016. A publicly-available version is in ADAMS under Accession No. ML16043A217.

Description of amendment request: The amendments would revise the facility operating licenses and the technical specifications (TSs) for Point Beach Nuclear Plant, Units 1 and 2. The proposed changes to the operating licenses, which are administrative in nature, remove license conditions that have been completed and are no longer in effect. The proposed change to the TSs revise the ventilation filter testing program by changing the value for methyl iodide penetration for the control room emergency filtration system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment includes a change to delete license conditions that are complete or otherwise obsolete. This change is strictly administrative in nature. The proposed amendment also revises the charcoal testing criteria in TS 5.5.10, Ventilation Filter Testing Program. The proposed changes do not impact the physical configuration or function of plant structures, systems, or components (SSCs) or the manner in which SSCs are operated, maintained, modified, tested, or inspected. No actual facility equipment or accident analyses are affected by the proposed changes.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed). The proposed changes do not create any new failure modes for existing equipment or any new limiting single failures. Additionally, the proposed changes do not involve a change in the methods governing normal plant operation, and all safety functions will continue to perform as previously assumed in the accident analyses. Thus, the proposed change does not adversely affect the design function or operation of any structures, systems, and components important to safety.

No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed changes. The proposed changes do not challenge the performance or integrity of any safety-related system.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The margin of safety associated with the acceptance criteria of any accident is unchanged. The proposed changes will have no effect on the availability, operability, or performance of safety-related systems and components. The proposed change will not adversely affect the operation of plant equipment or the function of equipment assumed in the accident analysis.

The proposed amendment does not involve changes to any safety analyses assumptions, safety limits, or limiting safety system settings. The changes do not adversely impact plant operating margins or the reliability of equipment credited in the safety analyses.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William Blair, Managing Attorney—Nuclear, Florida Power & Light Company, P. O. Box 14000, 700 Universe Boulevard, Juno Beach, FL 33408–0420.

NRC Branch Chief: David J. Wrona.

Northern States Power Company—Minnesota (NSPM), Docket No. 50–263, Monticello Nuclear Generating Plant (MNGP), Wright County, Minnesota

Date of amendment request: February 10, 2016. A publicly-available version is in ADAMS under Accession No. ML16047A336.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 5.5.11, "Primary Containment Leakage Rate Testing Program," to increase the containment integrated leakage rate test program Test A interval from 10 to 15 years.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment involves a permanent change to extend the Type A containment integrated leak rate test (ILRT) interval from 10 to 15 years. The proposed extension does not involve either a physical change to the plant or a change in the manner in which the plant is operated or maintained. The containment is designed to provide an essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. As such, the containment and the testing requirements invoked to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident, and do not involve the prevention or identification of any precursors of an accident.

The effect of changing the Type A test frequency to once every 15 years, measured as an increase to the total integrated plant risk (for accident sequences influenced by Type A testing), is less than or equal to the criteria established in [Electric Power Research Institute (EPRI)] Report No. 1009325, Revision 2–A. Moreover, the risk impact for the ILRT extension when compared to other severe accident risks is negligible. In addition, as documented in NUREG–1493, Type B and C tests have identified a very large percentage of containment leakage paths, and the percentage of containment leakage paths that are detected only by Type A testing is very small. The MNGP Type A test history supports this conclusion.

The integrity of the containment is subject to two types of failure mechanisms that can be categorized as: (1) Activity based, and, (2) time based. Activity based failure mechanisms are defined as those which involve degradation due to system and/or component modifications or maintenance. Local leak rate test requirements and administrative controls such as configuration management and procedural requirements for system restoration ensure that containment integrity is not degraded by plant modifications or maintenance activities. The design and construction requirements of the containment combined with the containment inspections performed in accordance with American Society of Mechanical Engineers (ASME) [Boiler and Pressure Vessel Code,] Section XI, and TS requirements provide a high degree of assurance that the containment would not degrade in a manner that is detectable only by a Type A test.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed TS change involves a permanent extension of the Type A containment test interval from 10 to 15 years. The containment testing requirements which periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident. The proposed change does not involve a physical change to the plant (*i.e.,* no new or different type of equipment will be installed) nor does the proposed change alter the design, configuration, or the manner in which the plant is operated or controlled beyond the standard functional capabilities of the equipment.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed TS change involves a permanent extension of the Type A containment test interval from 10 to 15 years. The specific requirements and conditions of the Primary Containment Leak Rate Testing Program exist to ensure that the required degree of containment structural integrity and leak-tightness considered in the plant safety analysis is maintained. The overall containment leak rate limit specified by TS is maintained.

The proposed change involves only an extension of the interval between Type A test performances for MNGP. Extension of the proposed surveillance interval is in accordance with the 15-year ILRT Interval determined acceptable by the NRC utilizing the guidance of [Nuclear Energy Institute (NEI)] 94–01, Revision 2–A. Industry experience supports the conclusion that Type B and C testing detects a large percentage of containment leakage paths and that the percentage of containment leakage paths that are detected only by Type A testing is small. The containment inspections performed in accordance with ASME Section XI, and the TS serve to provide a high degree of assurance that the containment would not degrade in a manner that is detectable only by Type A testing. The combination of these factors ensures that the margin of safety in the plant safety analysis is maintained. The design, operation, testing methods and acceptance criteria for Type A, B, and C containment leakage tests specified in applicable codes and standards continue to be met with the acceptance of this proposed change because these criteria are not affected by the proposed change to the Type A test interval.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: David J. Wrona.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: November 24, 2015. A publicly-available version is in ADAMS under Accession No. ML15328A515.

Description of amendment request: The amendment request proposes to rename, relocate, and add radiation detectors to provide monitoring of the radiologically controlled area ventilation system (VAS) exhaust from the radiologically controlled areas of the auxiliary building and annex building. The amendment proposes changes in the VEGP Updated Final Safety Analysis Report (UFSAR) Tier 2 information, and departure from certified AP1000 Design Control Document (DCD) Tier 1 information. It also requires conforming changes to Combined License Appendix C, "Inspections, Tests, Analyses, and Acceptance Criteria." Because this proposed change requires a departure from Tier 1 information in the Westinghouse Advanced Passive 1000 DCD, the licensee also requested an exemption from the requirements of the Generic DCD Tier 1 in accordance with 52.63(b)(1).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The design functions of the VAS include prevention of the unmonitored release of airborne radioactivity to the atmosphere or adjacent plant areas by providing monitoring of the VAS exhaust from radiologically controlled areas of the auxiliary building and annex building, and to automatically isolate the selected building areas and start the containment air filtration system (VFS) upon detection of high radioactivity. The proposed changes to the VAS to relocate and add radiation detectors are acceptable as they maintain these design functions.

These proposed changes to the VAS design as described in the current licensing basis do not have an adverse effect on any of the design functions of the systems. The proposed changes do not affect the support, design, or operation of mechanical and fluid systems required to mitigate the consequences of an accident. There is no change to plant systems or the response of systems to postulated accident conditions. There is no change to the predicted radioactive releases due to postulated accident conditions. The plant response to previously evaluated accidents or external events is not adversely affected, nor do the proposed changes described create any new accident precursors.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes revise the VAS design as described in the current licensing basis to enable the system to perform required design functions, and are consistent with other UFSAR information. The proposed changes do not change the design requirements for the system. The relocated and new VAS radiation detectors are designed to the same equipment specifications, including required sensitivity and range, as the existing radiation detectors. The relocated and new VAS radiation detectors monitor the same parameters, as well as perform the same design functions, as the existing radiation detectors. The proposed changes to the system do not result in a new failure mechanism or introduce any new accident precursors. No design function described in the UFSAR is adversely affected by the proposed changes. The proposed changes do not result in a new failure mode, malfunction or sequence of events that could affect safety or safety-related equipment. The proposed changes do not allow for a new fission product release path, result in a new fission product barrier failure mode, or create a new sequence of events that would result in significant fuel cladding failures.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not change the codes or standards for the radiation detectors, or functionality of the ductwork in the auxiliary building and annex building. The proposed changes have no adverse effect on the nonsafety-related system design functions of the VAS for the prevention of the unmonitored release of airborne radioactivity to the atmosphere or adjacent plant areas by providing monitoring of the VAS exhaust from radiologically controlled areas of the auxiliary building and annex building, and to automatically isolate the selected building areas and start the VFS upon detection of high radioactivity. The proposed changes do not affect safety-related equipment or equipment whose failure could initiate an accident. The proposed changes to relocate and add radiation detectors do not adversely interface with safety-related equipment or fission product barriers. Therefore, the proposed changes do not affect any safety-related equipment, design code, function, design analysis, safety analysis input or result, or design/safety margin. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the requested changes, thus, no margin of safety is reduced.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

Acting NRC Branch Chief: John McKirgan.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–424, 50–425, 52–025, 52–026, Vogtle Electric Generating Plant (VEGP), Units 1, 2, 3, and 4, Burke County, Georgia and Southern Nuclear Operating Company, Inc. (SNC), Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant (FNP), Units 1 and 2, Houston County, Alabama, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant (HNP), Units 1 and 2, City of Dalton, GA

Date of amendment request: March 3, 2016. A publicly-available version is in ADAMS under Accession No. ML16071A110.

Description of amendment request: The amendment requests NRC approval for the adoption of Nuclear Energy Institute (NEI) 99–01, Revision 6, "Development of Emergency Action Levels for Non-Passive Reactors," to replace the Emergency Action Level (EAL) schemes for VEGP, FNP, and HNP that are currently based on Revision 4 of NEI 99–01. Additionally, SNC proposes changes to the radiation monitors at FNP.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Adoption of NEI 99–01, Revision 6 EAL Schemes—The proposed changes to SNC's EAL schemes to adopt the NRC-endorsed guidance in NEI 99–01, Revision 6, "Development of Emergency Action Levels for Non-Passive Reactors," do not reduce the capability to meet the emergency planning requirements established in 10 CFR 50.47 and 10 CFR 50, Appendix E. The proposed changes do not reduce the functionality, performance, or capability of SNC's [emergency response organization (ERO)] to respond in mitigating the consequences of any design basis accident.

The probability of a reactor accident requiring implementation of Emergency Plan EALs has no relevance in determining whether the proposed changes to the EALs reduce the effectiveness of the Emergency Plans. As discussed in Section D, "Planning Basis," of NUREG–0654, Revision 1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants:"

". . . *The overall objective of emergency response plans is to provide dose savings (and in some cases immediate life saving) for* *a spectrum of accidents * * * No single specific accident sequence should be isolated as the one for which to plan because each accident could have different consequences, both in nature and degree. Further, the range of possible selection for a planning basis is very large, starting with a zero point of requiring no planning at all because significant offsite radiological accident consequences are unlikely to occur, to planning for the worst possible accident, regardless of its extremely low likelihood * * *.*"

Therefore, SNC did not consider the risk insights regarding any specific accident initiation or progression in evaluating the proposed changes.

The proposed changes do not involve any physical changes to plant equipment or systems, nor do they alter the assumptions of any accident analyses. The proposed changes do not adversely affect accident initiators or precursors nor do they alter the design assumptions, conditions, and configuration or the manner in which the plants are operated and maintained. The proposed changes do not adversely affect the ability of Structures, Systems, or Components (SSCs) to perform their intended safety functions in mitigating the consequences of an initiating event within the assumed acceptance limits.

Therefore, the proposed changes to the EAL schemes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

[FNP] RE–60 Radiation Monitors—The proposed changes to the [FNP] EALs resulting from the proposed modification of the RE–60 radiation monitors do not impact the physical function of SSCs or the manner in which SSCs perform their design function. The proposed change does not adversely affect accident initiators or precursors, nor alter design assumptions.

While the proposed change will alter the design configuration of the plant by replacing and relocating radiation monitors RE–60–A, B and C and by abandoning RE–60D, the proposed change does not alter or prevent the ability of operable SSCs to perform their intended function to mitigate the consequences of an initiating event within assumed acceptance limits. Similarly, while these instruments monitor and provide information on the consequences of an accident, the radiation monitors perform no safety function that directly mitigates the consequences of an accident. Further, no operating procedures or administrative controls that function to prevent or mitigate accidents are affected by the proposed change.

Therefore, the proposed change to the [FNP] EALs resulting from the proposed modification of the RE–60 radiation monitors does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Adoption of NEI 99–01, Revision 6 EAL Schemes—The proposed changes to SNC's EAL schemes to adopt the NRC-endorsed guidance in NEI 99–01, Revision 6, do not involve any physical changes to plant systems or equipment. The proposed changes do not involve the addition of any new plant equipment. The proposed changes will not alter the design configuration, or method of operation of plant equipment beyond its normal functional capabilities. All SNC ERO functions will continue to be performed as required. The proposed changes do not create any new credible failure mechanisms, malfunctions, or accident initiators.

Therefore, the proposed changes to the EAL schemes do not create the possibility of a new or different kind of accident from those that have been previously evaluated.

[FNP] RE–60 Radiation Monitors—The proposed change to the [FNP] EALs resulting from the proposed modification of the RE–60 radiation monitors does not impact the [FNP] accident analysis. The change does not involve a physical alteration of safety-related SSCs (*i.e.,* no new or different type of safety-related SSC will be installed), a change in the method of plant operation, or new operator actions. The proposed change will not introduce failure modes that could result in a new accident, and the change does not alter assumptions made in the safety analysis. The proposed change revises EALs, which establish the thresholds for placing the plant in an emergency classification. EALs are not initiators of any accidents.

Therefore, the proposed change to the [FNP] EALs resulting from the proposed modification of the RE–60 radiation monitors does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed changes involve a significant reduction in a margin of safety?

Response: No.

Adoption of NEI 99–01, Revision 6 EAL Schemes—The proposed changes to SNC's EAL schemes to adopt the NRC-endorsed guidance in NEI 99–01, Revision 6, do not alter or exceed a design basis or safety limit. There is no change being made to safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed changes. There are no changes to setpoints or environmental conditions of any SSC or the manner in which any SSC is operated. Margins of safety are unaffected by the proposed changes to adopt the NEI 99–01, Revision 6 EAL scheme guidance. The applicable requirements of 10 CFR 50.47 and 10 CFR 50, Appendix E will continue to be met.

Therefore, the proposed changes to SNC's EAL schemes do not involve any reduction in a margin of safety.

[FNP] RE–60 Radiation Monitors—Margin of safety is associated with confidence in the ability of the fission product barriers (*i.e.,* fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation dose to the public. The proposed change to the [FNP] EALs resulting from the proposed modification of the RE–60 radiation monitors does not impact operation of the plant or its response to transients or accidents. The change does not affect the Technical Specifications or the Operating License. The proposed change does not involve a change in the method of plant operation, and no accident analyses will be affected by the proposed change.

Additionally, the proposed change will not relax any criteria used to establish safety limits and will not relax any safety system settings. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside the design basis. The proposed change does not adversely affect systems that respond to safely shutdown the plant and to maintain the plant in a safe shutdown condition.

Therefore, the proposed change to the Farley EALs resulting from the proposed modification of the RE–60 radiation monitors does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Leigh D. Perry, SVP & General Counsel of Operations and Nuclear, Southern Nuclear Operating Company, 40 Iverness Center Parkway, Birmingham, AL 35201.

NRC Branch Chief: Michael T. Markley.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the "Obtaining Information and Submitting Comments" section of this document.

Dominion Nuclear Connecticut, Inc., Docket No. 50–336, Millstone Power Station, Unit No. 2 (MPS2), New London County, Connecticut

Date of amendment request: March 2, 2015, as supplemented by letter dated August 31, 2015.

Brief description of amendment: The amendment revised the technical specifications (TSs) by (1) aligning the peak calculated primary containment internal pressure (P_a) for the design basis loss of coolant accident in TS 6.19 to be consistent with the 10 CFR 50 Appendix, J, Option B definition of P_a, and (2) revising the acceptable methods of surveillance for leakage rate testing of the containment air lock door seals.

Date of issuance: March 31, 2016.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 326. A publicly-available version is in ADAMS under Accession No. ML16068A312; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–65: Amendment revised the Renewed Operating License and TSs.

*Date of initial notice in **Federal Register:*** July 21, 2015 (80 FR 43126). The supplemental letter dated August 31, 2015, provided additional information that expanded the scope of the application as originally noticed. A notice published in the **Federal Register** on February 22, 2016 (81 FR 8752), superseded the original notice in its entirety to reflect the expanded scope of the proposed amendment and include the staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 2016.

No significant hazards consideration comments received: No.

DTE Electric Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: September 24, 2015.

Brief description of amendment: The amendment deleted the note associated with Surveillance Requirement (SR) 3.5.1.4 to reflect the Residual Heat Removal (RHR) system design and ensure the RHR system operation is consistent with TS 3.5.1 Limiting Condition for Operation requirements.

Date of issuance: April 5, 2016.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 203. A publicly-available version is in ADAMS under Accession No. ML16054A637; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–43: This amendment revises the Facility Operating License and Technical Specifications.

*Date of initial notice in **Federal Register:*** November 24, 2015 (80 FR 73235).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 5, 2016.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: June 22, 2015.

Brief description of amendment: The amendment revised the James A. FitzPatrick Nuclear Power Plant Cyber Security Plan Implementation Schedule Milestone 8 full implementation date from June 30, 2016, to December 15, 2017.

Date of issuance: April 6, 2016.

Effective date: As of the date of issuance, and shall be implemented within 30 days of issuance.

Amendment No.: 311. A publicly-available version is in ADAMS under Accession No. ML16062A388; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–59: The amendment revised the Renewed Facility Operating License.

*Date of initial notice in **Federal Register:*** August 4, 2015 (80 FR 46349).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 6, 2016.

No significant hazards consideration comments received: No.

Florida Power & Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Nuclear Generating Unit Nos. 3 and 4, Miami-Dade County, Florida

Date of amendment request: July 2, 2015, as supplemented by letter dated November 17, 2015.

Brief description of amendments: The amendments revised the Technical Specifications (TSs) by removing TS 3/4.9.5, "Communications," and TS 3/4.9.6, "Manipulator Crane." The amendments require the licensee to relocate the requirements to the Updated Final Safety Analysis Report and related procedures to be controlled in accordance with 10 CFR 50.59, "Changes, tests, and experiments."

Date of issuance: March 29, 2016.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos: 269 (Unit No. 3) and 264 (Unit No. 4). A publicly-available version is in ADAMS under Accession No. ML16040A373; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the Renewed Facility Operating Licenses and TSs.

*Date of initial notice in **Federal Register:*** October 27, 2015 (80 FR 65813). The supplemental letter dated November 17, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 29, 2016.

No significant hazards consideration comments received: No.

Florida Power & Light Company, Docket Nos. 50–335 and 50–389, St. Lucie Plant Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment requests: March 22, 2013, as supplemented by letters dated June 14, 2013; February 24, March 25, April 25, July 14, August 27, September 10, and October 10, 2014; and March 10, April 1, April 20, May 12, August 21, and October 22, 2015.

Brief description of amendments: The amendments transition the fire protection program to a new risk-informed, performance-based alternative in accordance with 10 CFR 50.48(c), which incorporates by reference the National Fire Protection Association

(NFPA) Standard 805 (NFPA 805), "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants," 2001 Edition. Copies of NFPA 805 may be purchased from the NFPA Customer Service Department, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269–9101 and in PDF format through the NFPA Online Catalog (*http://www.nfpa.org*) or by calling 1–800–344–3555 or 617–770–3000. Copies are also available for inspection at the NRC Library, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20852–2738, and at the NRC PDR, One White Flint North, Room O1–F15, 11555 Rockville Pike, Rockville, Maryland 20852–2738.

Date of issuance: March 31, 2016.

Effective date: As of the date of issuance and shall be implemented as described in the transition license conditions.

Amendment Nos.: 231 and 181. A publicly-available version is in ADAMS under Accession No. ML15344A346; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–67 and NPF–16: Amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** December 26, 2013 (78 FR 78407). The supplemental letters dated February 24, March 25, April 25, July 14, August 27, September 10, and October 10, 2014; and March 10, April 1, April 20, May 12, August 21, and October 22, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 2016.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: July 24, 2015.

Brief description of amendment: The amendment revised the Technical Specification (TS) Surveillance Requirements (SRs), which currently require operation of ventilation systems with charcoal filters for a 10-hour period at a monthly frequency. The SRs are revised to require operation of the systems for 15 continuous minutes at a monthly frequency.

Date of issuance: April 5, 2016.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 287. A publicly-available version is in ADAMS under Accession No. ML16084A755; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–40: The amendment revised the License and Technical Specifications.

Date of initial notice in ***Federal Register:*** October 13, 2015 (80 FR 61485).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 5, 2016.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC and Exelon Generation Company, LLC, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station (Salem), Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: March 27, 2015, as supplemented by letter dated February 3, 2016.

Brief description of amendments: The amendments revised certain Technical Specification (TS) 3/4.3.1, "Reactor Trip System Instrumentation," actions. Specifically, TS Table 3.3–1, Action 2, is revised to allow one power range (PR) channel to be bypassed for up to 4 hours for surveillance testing, and two new action notes are established for the PR nuclear instrumentation in TS Table 4.3–1. The changes support the installation and use of bypass test capability for the PR nuclear instrumentation.

Date of issuance: March 28, 2016.

Effective date: As of the date of issuance and shall be implemented at Salem, Unit No. 1, prior to returning to the MODE of applicability following refueling outage 1R24, and at Salem, Unit No. 2, prior to returning to the MODE of applicability following refueling outage 2R22.

Amendment Nos.: 312 (Unit No. 1) and 293 (Unit No. 2). A publicly-available version is in ADAMS under Accession No. ML16054A068; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–70 and DPR–75: Amendments revised the Renewed Facility Operating Licenses and TSs.

Date of initial notice in ***Federal Register:*** July 7, 2015 (80 FR 38776). The supplemental letter dated February 3, 2016, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 28, 2016.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 15th day of April 2016.

For the Nuclear Regulatory Commission.

Anne T. Boland,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2016–09543 Filed 4–25–16; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* April 26, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on April 20, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 208 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–123, CP2016–156.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–09621 Filed 4–25–16; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77661; File No. SR–NASDAQ–2016–055]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Options Pricing at Chapter XV, Section 2

April 20, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 13, 2016, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter XV, entitled "Options Pricing," at Section 2, which governs pricing for Exchange members using the NASDAQ Options Market ("NOM"), the Exchange's facility for executing and routing standardized equity and index options.[3] The Exchange proposes to amend certain Penny Pilot Options[4] and Non-Penny Pilot Options pricing.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes certain amendments to the NOM transaction fees set forth at Chapter XV, Section 2, for executing and routing standardized equity and index Penny Pilot Options and Non-Penny Pilot Options. Specifically, the Exchange proposes to (a) Modify the Non-Penny Pilot Options fees and rebates schedule (per executed contract) to make Customer[5] and Professional[6] Fee for Adding Liquidity, Fee for Removing Liquidity, and Rebate to Add Liquidity the same; (b) modify Tier 5 and Tier 8 that allow Customer and Professional to earn a Penny Pilot Options Rebate to Add Liquidity; (c) modify note "c" and note "d" to indicate that they have applicability to Customer and/or Professional and to increase the amount of additional rebate from $0.03 to $0.05, and modify note "c" to indicate an alternative requirement for earning a rebate; and (d) modify which eligible contracts qualify for the Market Access and Routing Subsidy ("MARS") payment. The proposed changes are discussed below.

Today, the Exchange offers fees and rebates for Non-Penny Options to Customer, Professional, Firm,[7] Non-NOM Market Maker,[8] NOM Market Maker,[9] and/or Broker-Dealer[10]; and also offers fees and rebates for Penny Pilot Options. The current fees and rebates in Non-Penny-Pilot Options are as follows: the Fee for Adding Liquidity for Customer is N/A (not fee liable) and for Professional is $0.45; the Fee for Removing Liquidity for Customer is $0.85 and for Professional is $1.10; and the Rebate to Add Liquidity for Customer is $0.80[11] and for Professional is N/A (no rebate).

Today, the Exchange offers a Penny Pilot Options Rebate to Add Liquidity to Customers and Professionals that add liquidity per Tier 1 through Tier 8. These rebates range from $0.20 for Tier 1 to $ 0.48 for Tier 8 per contract,[12] and generally allow Participants[13] to earn a greater rebate by bringing more liquidity to the Exchange as specified in Tier 1 to Tier 8. Today, Tier 5 rebates are offered where Participant adds Customer, Professional, Firm, Non-NOM Market Maker, and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.40% to 0.75% of total industry customer equity and exchange traded fund ("ETF") option average daily volume ("ADV") contracts per day in a month. Or, in the alternative, Participant adds (1) Customer and/or Professional liquidity in Penny Pilot Options and/or

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] References in this proposal to Chapter and Series refer to NOM rules, unless otherwise indicated.

[4] The Penny Pilot was established in March 2008 and was last extended in 2015. *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); and 75283 (June 24, 2015), 80 FR 37347 (June 30, 2015) (SR–NASDAQ–2015–063) (notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2016). All Penny Pilot Options listed on the Exchange can be found at *http://www.nasdaqtrader.com/Micro.aspx?id=phlx.*

[5] The term "Customer" or ("C") applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation ("OCC") which is not for the account of broker or dealer or for the account of a "Professional" (as that term is defined in Chapter I, Section 1(a)(48)).

[6] The term "Professional" or ("P") means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

[7] The term "Firm" or ("F") applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC.

[8] The term "Non-NOM Market Maker" or ("O") is a registered market maker on another options exchange that is not a NOM Market Maker. A Non-NOM Market Maker must append the proper Non-NOM Market Maker designation to orders routed to NOM.

[9] "NOM Market Maker" means a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. "Participant" means a firm, or organization that is registered with the Exchange pursuant to Chapter II of these Rules for purposes of participating in options trading on NOM as a "Nasdaq Options Order Entry Firm" or "Nasdaq Options Market Maker", *see* Chapter I, Section (a)(40).

[10] The term "Broker-Dealer" or ("B") applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[11] Note "1", which is applicable to Rebate to Add Liquidity for Customer, states: [1] A Participant that qualifies for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2, 3, 4, 5 or 6 in a month will receive an additional $0.10 per contract Non-Penny Pilot Options Rebate to Add Liquidity for each transaction which adds liquidity in Non-Penny Pilot Options in that month. A Participant that qualifies for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 7 or 8 in a month will receive an additional $0.20 per contract Non-Penny Pilot Options Rebate to Add Liquidity for each transaction which adds liquidity in Non-Penny Pilot Options in that month.

[12] *See* Chapter XV, Section 2(1).

[13] "Participant" (also known as "NOM Participant") includes Options Market Makers and Options Order Entry Firms that are registered to enter orders into the System.

Non-Penny Pilot Options of 25,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support Program ("ISP") set forth in NASDAQ Rule 7014, and (3) the Participant executed at least one order on NASDAQ's equity market. Today, Tier 8 rebates are offered where Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month or Participant adds (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month and (2) the Participant has certified for the ISP set forth in NASDAQ Rule 7014. No change is proposed to the current Tier 5 and Tier 8 rebates; these Rebates to Add Liquidity remain at $0.45 and $0.48, respectively.[14] Rather, as discussed below, the Exchange proposes to delete reference to the ISP, which is being deleted.[15]

Today, notes "a" through "d" apply to certain rebate Tiers. Note "a", which references ISP,[16] is currently applicable to Tier 5 and Tier 8; the Exchange proposes to delete note "a" as the ISP references are no longer needed. Note "c", which indicates what liquidity Participants need to bring to the Exchange in order to earn an additional rebate amount, is applicable to Tier 8; the Exchange proposes to modify note "c" to change the available liquidity-enhancing ways to earn addition rebates. The Exchange proposes to make note "d" as amended, which discusses additional rebate opportunity through MARS liquidity, applicable to Professionals.[17]

Today, for the purpose of qualifying for MARS payment, eligible contracts may include Firm, Non-NOM Market Maker, Broker-Dealer, Joint Back Office or "JBO" or Professional equity option orders that add liquidity and are electronically delivered and executed. In light of the harmonization of Customer and Professional, described below, the Exchange is removing reference to Professional.

Change 1—Non-Penny Pilot Options: Customer and Professional, MARS Eligible Contracts

The Exchange proposes to modify the Non-Penny Pilot Options fees and rebates schedule (per executed contract) to harmonize the Customer and Professional Fee for Adding Liquidity, Fee for Removing Liquidity, and Rebate to Add Liquidity. The Exchange proposes to harmonize or make the relevant fees and rebates for Customer and Professional the same: For Fee for Adding Liquidity Customer and Professional will each not pay anything (currently, Professional pays $0.45); for Fee for Removing Liquidity Customer and Professional will each pay $0.85 (currently, Professional pays $1.10); and for Rebate to Add Liquidity Customer and Professional will each pay [sic] $0.80 (currently, Professional is not subject to a rebate for Non-Penny Pilot Options). The Exchange believes that this incentivizes Customers and Professional to continue to transact Non-Penny Pilot Options on the Exchange.

Following on the harmonization of Customer and Professional in fees and rebates, the Exchange proposes to delete Professional from the types of MARS contracts that qualify for MARS payment.[18] This is because at this time Customer equity option orders are not included in the list of contracts that are eligible for MARS payment.[19] Removal of Professional thus harmonizes the treatment of Customer and Professional vis a vis MARS.[20]

Change 2—Penny Pilot Options: Modify Tier 5 and Tier 8

The Exchange proposes to modify Tier 5 and Tier 8 that allow Customer and Professional to earn a Penny Pilot Options Rebate to Add Liquidity.

The Exchange proposes to amend Tier 5 of the Rebate to Add Liquidity by deleting the second volume alternative for this Tier, which requires, among other things, that the Participant has certified for the ISP set forth in NASDAQ Rule 7014. The Exchange proposes to amend Tier 8 of the Penny Pilot Options Rebate to Add Liquidity by updating a volume alternative which also requires that Participant has certified for the ISP. In lieu of the ISP reference in Tier 8, the Exchange proposes to state that Participant may provide liquidity in all securities through one or more of its NASDAQ Market Center "MPIDs"[21] that represent 1.00% or more of Consolidated Volume[22] in a month or qualifies [sic] for "MARS". MARS is the Market Access and Routing Subsidy, which offers rebates to certain NOM Participants that have routed the requisite number of contracts that were executed on NOM.[23]

Commensurate with deletion in Tier 5 and Tier 8 of reference to ISP, the Exchange also proposes to delete applicable note "a". This note applies only to Tier 5 and Tier 8 and, similarly, refers to ISP. As such, note "a" is no longer needed and is being deleted.

The Exchange believes that deleting reference to ISP in Tier 5 and Tier 8 Customer and Professional Penny Pilot Option Rebate to Add Liquidity and updating how one can qualify for rebates will continue to incentivize market participants to send order flow to NOM.

Change 3—Penny Pilot Options: Modify Note "c" and Note "d"

The Exchange proposes to modify note "c" and note "d" to indicate that they apply to Customer and Professional and to increase the amount of additional rebate from $0.03 to $0.05. The Exchange also proposes to modify note "c" to indicate additional ways to earn additional rebate.

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[14] No change is proposed to the rebates offered by achieving liquidity requirements set by the other Tiers (1, 2, 3, 4, 6, 7). As such, other than to note that these tiers continue to offer progressively larger rebates, these tiers are not discussed in the proposal.

[15] *See* NASDAQ–2016–051 (filed as immediately effective proposal deleting ISP). For the proposal to initiate ISP, *see also* Securities Exchange Act Release No. 63270 (November 8, 2010), 75 FR 69489 (November 12, 2010) (NASDAQ–2010–141) (notice of filing and immediate effectiveness).

[16] Note "a" states: [a] For purposes of Tiers 5 and 8, the Exchange will allow a NOM Participant to qualify for the rebate if a NASDAQ member has certified for the Investor Support Program and executed at least one order on NASDAQ's equity market.

[17] Note "d" will continue to be applicable to Customer Rebate to Add Liquidity in Penny Pilot Options.

[18] To qualify for MARS, the Participant's routing system ("System") would be required to: (1) Enable the electronic routing of orders to all of the U.S. options exchanges, including NOM; (2) provide current consolidated market data from the U.S. options exchanges; and (3) be capable of interfacing with NOM's API to access current NOM match engine functionality. Further, the Participant's System would also need to cause NOM to be the one of the top three default destination exchanges for individually executed marketable orders if NOM is at the national best bid or offer ("NBBO"), regardless of size or time, but allow any user to manually override NOM as a default destination on an order-by-order basis. Any NOM Participant would be permitted to avail itself of this arrangement, provided that its order routing functionality incorporates the features described above and satisfies NOM that it appears to be robust and reliable. The Participant remains solely responsible for implementing and operating its System. Chapter XV, Section 2(6).

[19] *See* Chapter XV, Section 2(6).

[20] The Exchange notes that Customer and Professional fees and rebates applicable to Penny Pilot Options are already harmonized. The proposed change will treat Customer and Professional similarly for Penny Pilot Options as well as Non-Penny Pilot Options.

[21] "MPID" is the market participant identifier, which is a unique four-letter mnemonic assigned to each Participant in the Nasdaq Market Center. *See* NASDAQ Rule 4701(i).

[22] "Consolidated volume" means the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities, excluding executed orders with a size of less than one round lot.

[23] *See* Chapter XV, Section 2(6).

The Exchange proposes language in note "d" to ensure that the Penny Pilot Options [sic] to Add Liquidity is for Professional as well as for Customer. Note "d" states, as proposed, that NOM Participants that qualify for MARS Payment Tiers 1, 2, or 3 will receive an additional $0.05 per contract Penny Pilot Options Customer and/or Professional Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month, in addition to qualifying Penny Pilot Options Customer and/or Professional Rebate to Add Liquidity Tiers 1–8.[24] To further incentivize Customers and Professionals to qualify for MARS Payment Tiers and to bring flow to the Exchange, in note "d" the Exchange proposes that for each transaction which adds liquidity in Penny Pilot Options in that month instead of receiving an additional $0.03 per contract one can receive an "additional $0.05 per contract"; and that the Rebate to Add Liquidity is for "Customer and/or Professional".

Note "c" gives three different ways for Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non- Penny Pilot Options to receive additional Penny Pilot Options Customer and/or Professional Rebate to Add Liquidity. Subsection (1), (2), and (3) in note "c", as proposed, offers additional rebates that are $0.02, $0.05, and $0.05 (changed from $0.03) per contract, respectively. To incentivize Customers and Professionals to qualify for bringing flow to the Exchange, in note "c" the Exchange proposes, similarly to the rebate and fees change, that each of the subsections is applicable to both "Customer and/or Professional". To further incentivize bringing flow to the Exchange, the Exchange enhances the means in subsection (3)[25] to earn additional rebates, and states Participants that: (a) Add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month, (b) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Non-Penny Pilot Options above 0.15% of total industry customer equity and ETF option ADV contracts per day in a month, and (c) execute greater than 0.04% of Consolidated Volume ("CV")[26] via Market-on-Close/Limit-on-Close ("MOC/LOC")[27] volume within the NASDAQ Stock Market Closing Cross in a month will receive an additional $0.05 per contract Penny Pilot Options Customer and/or Professional Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in a month. The Exchange believes that this proposed change, which includes a new methodology to earn rebates through CV via MOC/LOC, will incentivize bringing additional flow to the Exchange.

As proposed, in Chapter XV, Section 2, fees and rebates in Non-Penny Pilot Options (per executed contract), including Customer and Professional; and MARS Eligible Contracts, will read as follows:

FEES AND REBATES

[Per executed contract]

	Customer	Professional	Firm	Non-NOM market maker	NOM market maker	Broker-dealer
Non-Penny Pilot Options:						
Fee for Adding Liquidity	N/A	N/A	$0.45	$0.45	$0.35	$0.45
Fee for Removing Liquidity	0.85	0.85	1.10	1.10	[4]1.10	1.10
Rebate to Add Liquidity	[1]0.80	[1]0.80	N/A	N/A	N/A	N/A
MARS Eligible Contracts						

MARS Payment would be made to NOM Participants that have System Eligibility and have routed the requisite number of Eligible Contracts daily in a month, which were executed on NOM. For the purpose of qualifying for the MARS Payment, Eligible Contracts may include Firm, Non-NOM Market Maker, Broker-Dealer, or Joint Back Office or "JBO" equity option orders that add liquidity and are electronically delivered and executed. Eligible Contracts do not include Mini Option orders.

As proposed, in Chapter XV, Section 2 Tier 5 and Tier 8 in the Rebate to Add Liquidity will read as follows:

Monthly	Volume	Rebate to add liquidity
Tier 5	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.40% to 0.75% of total industry customer equity and ETF option ADV contracts per day in a month.	$0.45

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[24] Note "d" indicates that NOM Participants that qualify for a note "c" incentive will receive the greater of the note "c" or note "d" incentive.

[25] Current subsection (3) requires that a Participant: (a) [sic] 0.75% of total industry customer equity and ETF option ADV contracts per day in a month and (b) has added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.10% or more of Consolidated Volume in a month.

[26] Consolidated Volume means the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. *See* Chapter XV, Section 2(1), note "c".

[27] MOC/LOC, as set forth in NASDAQ Rule 4754, represents the volume in the NASDAQ Stock Market Closing Cross that allows market participants to contribute order flow that will result in executions at the official closing price for the day in the NASDAQ listed security. An "MOC Order" is an order type entered without a price that may be executed only during the NASDAQ Closing Cross, which refers to the equity closing cross. An "LOC Order" is an order type entered with a price that may be executed only in the NASDAQ Closing Cross.

Monthly	Volume	Rebate to add liquidity
Tier 8	Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month, or Participant adds: (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month, and (2) has added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.00% or more of Consolidated Volume in a month or qualifies for MARS (defined below).	[c] $0.48

As proposed, in Chapter XV, Section 2 note "c" and note "d" will read as follows:

[c] Participants that: (1) Add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.02 per contract Penny Pilot Options Customer and/or Professional Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month; or (2) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.30% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.05 per contract Penny Pilot Options Customer and/or Professional Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month; or (3) (a) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month, (b) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Non-Penny Pilot Options above 0.15% of total industry customer equity and ETF option ADV contracts per day in a month, and (c) execute greater than 0.04% of Consolidated Volume ("CV") via Market-on-Close/Limit-on-Close ("MOC/LOC") volume within the NASDAQ Stock Market Closing Cross in a month will receive an additional $0.05 per contract Penny Pilot Options Customer and/or Professional Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in a month. Consolidated Volume shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of an equity member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity.

[d] NOM Participants that qualify for MARS Payment Tiers 1, 2 or 3 will receive an additional $0.05 per contract Penny Pilot Options Customer and/or Professional Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month, in addition to qualifying Penny Pilot Options Customer and/or Professional Rebate to Add Liquidity Tiers 1–8. NOM Participants that qualify for a note "c" incentive will receive the greater of the note "c" or note "d" incentive.

In terms of housekeeping changes, the Exchange is correcting a typographical error in Non-Penny Options fees and rebates by adding "N/A" to make it even clearer that Broker-Dealer does not get a Rebate to Add Liquidity (in fact, this section of Rebate to Add Liquidity does not currently indicate any rebate to Broker-Dealer).

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act,[28] in general, and furthers the objectives of Section 6(b)(4) and (b)(5) of the Act,[29] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which The Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."[30] Likewise, in *NetCoalition* v. *Securities and Exchange Commission*[31] ("NetCoalition") the DC Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[32] As the court emphasized, the Commission "intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost."[33]

Further, "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . ."[34] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange believes that the proposed change is reasonable, equitable and not unfairly discriminatory for the following reasons.

Change 1—Non-Penny Pilot Options: Customer and Professional, MARS Eligible Contracts

In Change 1, the Exchange proposes to modify the Non-Penny Pilot Options fees and rebates schedule (per executed contract) to harmonize Customer and Professional Fee for Adding Liquidity, Fee for Removing Liquidity, and Rebate to Add Liquidity. In particular, the Exchange proposes to harmonize or make the relevant fees and rebates for Customer and Professional the same for Fee for Adding Liquidity, Fee for Removing Liquidity, and Rebate to Add Liquidity. The Exchange believes that this incentivizes Customers and Professional to continue to transact Non-Penny Pilot Options on the Exchange.

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[28] 15 U.S.C. 78f(b).

[29] 15 U.S.C. 78f(b)(4), (5).

[30] Securities Exchange Act Release No. 51808 at 37499 ("Regulation NMS Adopting Release" at Securities Exchange [sic] Release No. 34–51808 (June 29, 2005), 70 FR 37496 (File No. S7–10–04)).

[31] *NetCoalition* v. *SEC*, 615 F.3d 525 (D.C. Cir. 2010).

[32] *See id.* at 534–535.

[33] *See id.* at 537.

[34] *Id.* at 539 (quoting Securities Exchange Commission at [sic] Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR–NYSEArca–2006–21) at 73 FR at 74782–74783).

Similar to the harmonization of Customer and Professional in fees and rebates, the Exchange proposes to delete Professional from the types of MARS contracts that quality for MARS payment. This is because at this time Customer equity option orders are not included in the list of contracts that are eligible for MARS payment.[35] Removal of Professional thus harmonizes the treatment of Customer and Professional vis a vis MARS.

The proposed rule change is reasonable because it continues to encourage market participant behavior through the fees and rebates system, which is an accepted methodology among options exchanges.[36] It is reasonable to encourage Customer and Professional by putting them in the same fees and rebates position, as discussed above, in regards to Non-Penny Pilot Options.[37] It is also reasonable to carry the Customer and Professional harmonization through to the MARS eligibility, so that Customer and Professional are treated the same.

The Exchange believes it is equitable and not unfairly discriminatory to make the noted harmonization changes regarding Customer and Professional, who bring liquidity to the Exchange. Such liquidity attracts other market participants. Customer and Professional liquidity benefits all market participants by providing more trading opportunities, which attract Market Makers.[38] An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Also, the Exchange believes that it is equitable and not unfairly discriminatory to make MARS eligibility the same for Customer and Professional. The Exchange believes that the proposed change is equitable and not unfairly discriminatory because it will be applied uniformly to all Customers and Professionals. The proposed fees and rebates and MARS change enhances the competitiveness of the Exchange by continuing to incentivize bringing flow to the Exchange.

Change 2—Penny Pilot Options: Modify Tier 5 and Tier 8

In Change 2, the Exchange's proposal to delete reference to a program that is being deleted, ISP, in Tiers 5 and 8 of the Rebate to Add Liquidity and to substitute Consolidated Volume or MARS volume in Tier 8, and to delete note "a" that refers to ISP, is reasonable because NOM Participants will continue to be incentivized to send more order flow to NOM. The Exchange believes that deletion or substitution of reference to ISP is reasonable because the ISP program is being deleted and the reference to ISP in the Payment Schedule as discussed is no longer valid.

The proposed deletion of the ISP reference is reasonable because the program is being retired.[39] Substituting ISP reference in Tier 8 with reference to Consolidated Volume or MARS volume is reasonable because it is designed to attract volume to the Exchange. With this proposal, in order to qualify for the highest Tier 8 rebate ($0.48), a NOM Participant must have added Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month; or, in the alternative, Participant must have added: (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month, and (2) must have, as proposed, either added liquidity in all securities through one or more Nasdaq Market Center MPIDs that represent 1.00% or more of Consolidated Volume in a month, or must qualify for MARS. This brings liquidity to the Exchange. The proposed rule change is reasonable because it continues to encourage market participant behavior through the fees and rebates system, which is an accepted methodology among options exchanges.[40] The Tiers and the proposed change to Tier 8 continue to reflect the progressively increasing rebate requirements that offer incentives to earn the highest Rebate to Add Liquidity by bringing the most order flow to the Exchange.

The Exchange believes it is equitable and not unfairly discriminatory to continue to offer rebate Tiers, and in particular proposed Tier 8, in order to incentivize Professionals and Customers to bring liquidity to the Exchange. Such liquidity, and in particular Customer liquidity, attracts other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attract Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Also, the Exchange believes that it is equitable and not unfairly discriminatory to offer Tier 8 incentives to certain NOM Participants because the ability to earn Tier 8 rebates, as well as the requirements to earn such rebates, would apply uniformly to qualifying NOM Participants. By attracting flow to the Exchange, the proposed Tier 8 liquidity goals enhance the competitiveness of the Exchange.

Change 3—Penny Pilot Options: Modify Note "c" and Note "d"

In Change 3, the Exchange proposes to modify note "c" and note "d" to indicate that they have applicability to Customer and/or Professional and to increase the amount of additional rebate from $0.03 to $0.05. The Exchange also proposes to modify note "c" to indicate enhanced ways to earn additional rebate.

It is reasonable to incentivize Participants to bring flow to the Exchange. To further incentivize Participants on NOM to bring flow to the Exchange, in note "d" the Exchange proposes that if the Participants qualify for MARS Payment Tiers 1, 2, or 3 and to [sic] bring flow to the Exchange, then such Participants will receive an additional $0.05 per contract (now $0.03) Penny Pilot Options Customer and/or Professional Rebate to Add Liquidity (in addition to qualifying Penny Pilot Options Customer [sic] Rebate to Add Liquidity Tiers 1–8). To incentivize qualifying for additional rebate by bringing flow to the Exchange, in note "c" the Exchange reasonably proposes, similarly to the rebate and fee change, that each of the subsections is applicable to both "Customer and/or Professional". To further incentivize bringing flow to the Exchange, the Exchange enhances the means in subsection (3) of note "c" to earn additional rebates and states that Participants can receive an additional $0.05 per contract Penny Pilot Options Customer and/or Professional Rebate to Add Liquidity through: (a) Add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month, (b) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Non-Penny Pilot Options above 0.15% of total industry customer equity and ETF option ADV contracts per day in a month, and (c) execute greater than 0.04% of CV via MOC/LOC volume within the NASDAQ Stock Market Closing Cross in a month. It is reasonable for the Exchange to further incentivize bringing flow to the Exchange by proposing a new methodology to earn option rebates through CV via MOC/LOC within the NASDAQ Stock Market Closing Cross.

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[35] *See* Chapter XV, Section 2(6).

[36] *See, e.g.,* fee and rebate schedules of other options exchanges, including, but not limited to, NYSE ARCA ("ARCA") *https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf,* and BATS BZX OPTIONS ("BATS") *http://www.batsoptions.com/support/fee_schedule/bzx/. See also* NASDAQ BX Options Market ("BX Options"), NASDAQ PHLX LLC ("Phlx"), and Chicago Board Options Exchange ("CBOE").

[37] The Exchange notes that Customer and Professional fees and rebates applicable to Penny Pilot Options are already harmonized. The proposed change will treat Customer and Professional similarly for Penny Pilot Options as well as Non-Penny Pilot Options.

[38] Market Makers on the Exchange are valuable market participants that provide liquidity in the marketplace. They also have obligations to the market and regulatory requirements, which normally do not apply to other market participants.

[39] *See* NASDAQ–2016–051 (filed as immediately effective proposal deleting ISP).

[40] *See, e.g.,* fee and rebate schedules of other options exchanges, including, but not limited to, NYSE ARCA ("ARCA") *https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf,* and BATS BZX OPTIONS ("BATS") *http://www.batsoptions.com/support/fee_schedule/bzx/. See also* NASDAQ BX Options Market ("BX Options"), NASDAQ PHLX LLC ("Phlx"), and Chicago Board Options Exchange ("CBOE").

The proposed rule change is reasonable because it continues to encourage market participant behavior through the fees and rebates system, which is an accepted methodology among options exchanges. It is reasonable to incentivize bringing flow to the Exchange by offering additional or enhanced ways to bring liquidity to the Exchange and earn payment for it. It is also reasonable to make sure that Customer and Professional are harmonized and treated the same.

The Exchange believes it is equitable and not unfairly discriminatory to make the changes to note "c" and note "d" because they will be applied uniformly across all similarly situated Participants, while promoting bringing liquidity to the Exchange.

Such liquidity attracts other market participants. Customer and Professional liquidity benefits all market participants by providing more trading opportunities, which attract Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The proposed changes enhance the competitiveness of the Exchange by continuing to incentivize bringing flow to the Exchange.

The Exchange desires to continue to incentivize members and member organizations, through the Exchange's rebate and fee structure, to select the Exchange as a venue for bringing liquidity and trading by offering competitive pricing. Such competitive, differentiated pricing exists today on other options exchanges. The Exchange's goal is creating and increasing incentives to attract orders to the Exchange that will, in turn, benefit all market participants through increased liquidity at the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee and rebate changes in this market may impose any burden on competition is extremely limited. In this instance, the proposed changes regarding the Non-Penny Pilot Options fees and rebates, Tiers 5 and 8, notes "c" and "d", and MARS eligibility do not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues.

The proposed changes reflect this competition and the Exchange's desire to offer better fees and rebates in return for market-improving liquidity, which is ultimately limited by the Exchange's need to cover costs and make a profit. Thus, the Exchange must carefully adjust its fees and rebates with the understanding that if the proposed changes are unattractive to market participants, it is likely that the Exchange will lose market share to other exchanges and off-exchange venues as a result.

The Exchange is proposing changes regarding the Non-Penny Pilot Options fees and rebates, Tiers 5 and 8, notes "c" and "d", and MARS eligibility. The Exchange believes that such proposed changes will support liquidity on the Exchange and are procompetitive, since any other market is free to provide similar, if not better, fees and rebates should they choose to do so. For these reasons, the Exchange does not believe that the proposed changes will impair the ability of its own members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[41]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2016–055 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

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[41] 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR–NASDAQ–2016–055. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASDAQ–2016–055 and should be submitted on or before May 17, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–09597 Filed 4–25–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77658; File No. SR–NYSEMKT–2016–45]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Modifying the NYSE Amex Options Fee Schedule

April 20, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 11, 2016, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE Amex Options Fee Schedule ("Fee Schedule"). The Exchange proposes to implement the fee change effective April 11, 2016. The proposed change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Sections I. E. and G. of the Fee Schedule[4] to adjust fees and credits payable, effective on April 11, 2016.

Proposed changes to ACE Program

Section I.E. of the Fee Schedule describes the Exchange's ACE Program, which features five tiers expressed as a percentage of total industry Customer equity and Exchange Traded Fund ("ETF") option average daily volume[5] and provides two alternative methods through which Order Flow Providers (each an "OFP") may receive per contract credits for Electronic Customer volume that the OFP, as agent, submits to the Exchange.

The Exchange proposes to modify the ACE Program by increasing certain of the credits available for Tiers 2 through 5 as illustrated in the table below, with proposed additions appearing underscored and proposed deletions appearing in brackets:

	ACE Program—Standard options			Credits payable on customer volume only		
Tier	Customer electronic ADV as a % of industry customer equity and ETF options ADV	OR	Total electronic ADV (of which 20% or greater of the minimum qualifying volume for each tier must be customer) as a % of industry customer equity and ETF options ADV	Customer volume credits	1 Year enhanced customer volume credits	3 Year enhanced customer volume credits
1	0.00% to 0.60%		N/A	$0.00	$0.00	$0.00

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[42] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Fee Schedule, Sections I. E. (Amex Customer Engagement ("ACE") Program—Standard Options) and G. (CUBE Auction Fees & Credits), *available here, https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf.*

[5] The volume thresholds are based on an NYSE Amex Options Market Makers' volume transacted Electronically as a percentage of total industry Customer equity and ETF options volumes as reported by the Options Clearing Corporation (the "OCC"). Total industry Customer equity and ETF option volume is comprised of those equity and ETF contracts that clear in the Customer account type at OCC and does not include contracts that clear in either the Firm or Market Maker account type at OCC or contracts overlying a security other than an equity or ETF security. *See* OCC Monthly Statistics Reports, *available here, http://www.theocc.com/webapps/monthly-volume-reports.*

Tier	ACE Program—Standard options			Credits payable on customer volume only		
	Customer electronic ADV as a % of industry customer equity and ETF options ADV	OR	Total electronic ADV (of which 20% or greater of the minimum qualifying volume for each tier must be customer) as a % of industry customer equity and ETF options ADV	Customer volume credits	1 Year enhanced customer volume credits	3 Year enhanced customer volume credits
2	> 0.60% to 0.80% or ≥ 0.35% over October 2015 volumes.		N/A	[(0.16] *(0.18)*	[(0.16)] *(0.18)*	[(0.16)] *(0.18)*
3	> 0.80% to 1.25%		1.50% to 2.50% of which 20% or greater of 1.50% must be Customer.	[(0.17)] *(0.19)*	[(0.18)] *(0.20)*	[(0.19)] *(0.21)*
4	> 1.25 to 1.75%		> 2.50% to 3.50% of which 20% or greater of 2.50% must be Customer.	[(0.18)] *(0.20)*	[(0.19)] *(0.21)*	[(0.21)] *(0.22)*
5	> 1.75%		> 3.50% of which 20% or greater of 3.5% must be Customer.	[(0.19)] *(0.22)*	[(0.21)] *(0.23)*	[(0.23)] *(0.24)*

* * * * *

The proposed amendments to the ACE Program are designed to enhance the rebates, which the Exchange believes would attract more volume and liquidity to the Exchange to the benefit of Exchange participants through increased opportunities to trade as well as enhancing price discovery.

Proposed changes to CUBE Pricing

Section I.G. of the Fee Schedule sets forth the rates for per contract fees and credits for executions associated with a CUBE Auction. The Exchange is proposing to adjust rates for RFR Response fees and Initiating Credits and Rebates. Specifically, the Exchange proposes to adjust RFR Response fees for Non-Customers to $0.70 for symbols in the Penny Pilot, from $0.12; and to adjust RFR Response fees for Non-Customers for symbols not in the Penny Pilot to $1.05, from $0.12. The Exchange also proposes to adjust the Initiating Participant credits and rebates to $0.35 for symbols in the Penny Pilot, $0.70 for symbols not in the Penny Pilot, an increase from the $0.05 Initiating Participant credit in all names. The Exchange also proposes to increase the ACE Initiating Participant Rebate from $0.05 to $0.18.

The proposed changes are designed to increase incentives for submission of CUBE Orders, which should maximize price improvement opportunities for Customers. In addition, the Exchange notes that prior changes to CUBE Pricing (effective in February 2016), designed to address concerns raised about auction fee structures revealed that fee adjustments to incent Market Maker participation did not lead to greater volume and liquidity in CUBE Auctions, and did not encourage Market Maker RFR Responses to such Auctions.[6]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed amendments to the ACE Program are reasonable, equitable and not unfairly discriminatory because they would enhance the incentives to Order Flow Providers to transact Customer orders on the Exchange, which would benefit all market participants by providing more trading opportunities and tighter spreads, even to those market participants that do not participate in the ACE Program. Additionally, the Exchange believes the proposed changes to the ACE Program are consistent with the Act because they may attract greater volume and liquidity to the Exchange, which would benefit all market participants by providing tighter quoting and better prices, all of which perfects the mechanism for a free and open market and national market system.

The Exchange believes that the proposed changes to CUBE Auction fees are reasonable, equitable and not unfairly discriminatory. Specifically, the proposed increases to both the Initiating Participant Credits (for both Penny Pilot and Non-Penny Pilot) as well as the fees associated with RFR Responses that participate in the CUBE are reasonable, equitable and non-discriminatory because they apply equally to all ATP Holders that choose to participate in the CUBE, and access to the Exchange is offered on terms that are not unfairly discriminatory.

The Exchange believes the proposed changes to CUBE are reasonable, as they are similar to fee and credit structures previously applied to the CUBE Auction[9] and to fees charged for similar auction mechanisms on other markets, such as BOX Options Exchange LLC ("BOX"), which charges a total fee of $1.05 for a Market Maker response to a PIP auction in a non-Penny Pilot issue.[10]

The Exchange likewise believes the proposed increase of the ACE Initiating Participant Credit is reasonable, equitable and not unfairly discriminatory for the following reasons. First, the ACE Initiating Participant Rebate is based on the amount of business transacted on the Exchange and is designed to attract more volume and liquidity to the

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[6] *See* Securities Exchange Act Release No. 77106 (February 10, 2016), 81 FR 8107, 8108 (February 17, 2016) (SR–MKT–2016–18) (the "February CUBE Changes") (noting that the changes to CUBE pricing, particularly the reduction in the RFR Response Fee, were designed to address concerns raised by Market Makers that auction pricing, including the CUBE, hindered competition by Market Makers, and providing that "the proposed changes would also provide the concerned Market Makers to have a platform on which they can provide proof of concept.") The Exchange notes that the CUBE fees and credits in place prior to the February CUBE Changes are consistent with the adjustments proposed herein.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] *See supra* n. 6.

[10] *See* BOX Fee Schedule, *available here, http://boxexchange.com/assets/BOX_Fee_Schedule.pdf.*

Exchange generally, and to CUBE Auctions specifically, which would benefit all market participants (including those that do not participate in the ACE Program) through increased opportunities to trade at potentially improved prices as well as enhancing price discovery. Furthermore, the Exchange notes that the ACE Initiating Participant Rebate is equitable and not unfairly discriminatory because it would continue to incent ATP Holders to transact Customer orders on the Exchange and an increase in Customer order flow would bring greater volume and liquidity to the Exchange. Increased volume to the Exchange benefits all market participants by providing more trading opportunities and tighter spreads, even to those market participants that do not participate in the ACE Program.

Finally, the Exchange believes the proposed changes are consistent with the Act because to the extent the modifications permit the Exchange to continue to attract greater volume and liquidity, the proposed change would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[11] the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed amendments to the ACE Program are pro-competitive as the proposed increased rebates may encourage OFPs to direct Customer order flow to the Exchange and any resulting increase in volume and liquidity to the Exchange would benefit all Exchange participants through increased opportunities to trade as well as enhancing price discovery. Further, the Exchange believes the proposed amendments to CUBE Auction pricing are pro-competitive as the fees and credits are designed to incent increases in the number of CUBE Auctions brought to the Exchange, which would benefit all Exchange participants through increased opportunities to trade as well as enhancing price discovery.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[12] of the Act and subparagraph (f)(2) of Rule 19b–4[13] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2016–45 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2016–45. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2016–45, and should be submitted on or before May 17, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–09594 Filed 4–25–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77660; File No. SR–BOX–2016–19]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Program for the Listing and Trading of Options Settling to the RealVol™ SPY Index ("Index")

April 20, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on April 18, 2016, BOX Options Exchange LLC (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

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[11] 15 U.S.C. 78f(b)(8).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

[14] 15 U.S.C. 78s(b)(2)(B).

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot program for the listing and trading of options settling to the RealVol™ SPY Index ("Index"). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the pilot period for the listing and trading of options settling to the RealVol™ SPY Index ("Index"), which is currently scheduled to expire on May 6, 2016.[3] The Exchange is proposing to extend the pilot period for an additional twelve (12) month period, until May 6, 2017. This filing does not propose any substantive changes to the listing and trading of options settling to the RealVol™ SPY ("the RealVol™ SPY Pilot Program" or "Pilot Program").

In the initial proposal to list and trade this product, the Exchange stated that if it were to propose an extension, permanent approval or termination of the Pilot Program, the Exchange would submit a filing proposing such amendments to the program.[4] Accordingly, the Exchange is submitting this filing to extend the program, as the Exchange has not yet begun to list or trade options settling to the RealVol™ SPY Index, but plans to do so in the future.

As proposed in the initial filing, the Exchange proposes to submit a Pilot Program Report to the Securities and Exchange Commission (the "Commission") two months prior to the expiration date of the Pilot Program (the "annual report").[5] The annual report would contain an analysis of volume, open interest, and trading patterns. The analysis would examine trading in the proposed option product as well as trading in SPY. In addition, for series that exceed certain minimum open interest parameters, the annual report would provide analysis of index price volatility and SPY trading activity. In addition to the annual report, the Exchange would provide the Commission with periodic interim reports while the pilot is in effect that would contain some, but not all, of the information contained in the annual report. The annual report would be provided to the Commission on a confidential basis.

The annual report would contain the following volume and open interest data:

(1) Monthly volume aggregated for all trades;

(2) monthly volume aggregated by expiration date;

(3) monthly volume for each individual series;

(4) month-end open interest aggregated for all series;

(5) month-end open interest for all series aggregated by expiration date; and

(6) month-end open interest for each individual series.

In addition to the annual report, the Exchange would provide the Commission with interim reports of the information listed in Items (1) through (6) above periodically as required by the Commission while the pilot is in effect. These interim reports would also be provided on a confidential basis.

In addition, the annual report would contain the following analysis of trading patterns in VOLS series in the pilot:

(1) A time series analysis of open interest; and

(2) an analysis of the distribution of trade sizes.

Also, for series that exceed certain minimum parameters, the annual report would contain the following analysis related to index price changes and SPY trading volume at the close on expiration Fridays:

(1) A comparison of index price changes at the close of trading on a given expiration Friday with comparable price changes from a control sample. The data would include a calculation of percentage price changes for various time intervals and compare that information to the respective control sample. Raw percentage price change data as well as percentage price change data normalized for prevailing market volatility, as measured by the Chicago Board Options Exchange, Incorporated ("CBOE") Volatility Index (VIX), would be provided; and

(2) a calculation of trading volume for a sample set of SPY representing an upper limit on trading that could be attributable to expiring in-the-money series. The data would include a comparison of the calculated volume for SPY in the sample set to the average daily trading volumes of SPY over a sample period.

The minimum open interest parameters, control sample, time intervals, and sample periods would be determined by the Exchange and the Commission.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[6] in general, and Section 6(b)(5) of the Act,[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes the proposed extension will further the Exchange's goal of introducing new and innovative products to the marketplace. The Exchange believes that listing the RealVol™ SPY Index will provide an opportunity for investors to hedge, or speculate on, the market risk associated with changes in realized volatility.

The Exchange believes that extending the RealVol™ SPY Index Pilot Program promotes just and equitable principles of trade by permitting market participants, including market makers, institutional investors and retail investors, the potential to establish greater positions when pursuing their investment goals and needs.

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[3] *See* Securities Exchange Act Release No. 74876 (May 5, 2015), 80 FR 26966 (May 11, 2015) (Order Approving SR–BOX–2015–06).

[4] *Id.*

[5] *Id.* The Exchange did not submit an annual report because the Index was never listed for trading.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed extension will allow for the listing and trading of a novel index option product that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[10] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay period and make the proposed rule change effective and operative upon filing because it will allow for the listing and trading of a previously approved novel index option product that will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange believes that the proposal is non-controversial and would not affect the protection of investors or the public interest and will not impose any burden on competition as it only seeks to extend the operation of a previously approved pilot program before it expires on May 6, 2016. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2016–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2016–19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2016–19, and should be submitted on or before May 17, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–09596 Filed 4–25–16; 8:45 am]

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[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77659; File No. SR–CBOE–2016–037]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

April 20, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 11, 2016, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Frequent Trader Program. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule.[5] By way of background, on April 1, 2016, the Exchange adopted a program that offers transaction fee rebates to Customers (origin code "C") that meet certain volume thresholds in CBOE VIX Volatility Index options ("VIX options") and S&P 500 Index options ("SPX"), weekly S&P 500 options ("SPXW") and p.m.-settled SPX Index options ("SPXpm") (collectively referred to as "SPX options") provided the Customer registers for the program (the "Frequent Trader Program" or "Program").[6]

To participate in the Frequent Trader Program, Customers register with the Exchange. Once registered, the Customer is provided a unique identification number ("FTID") that can be affixed to each of its orders. The FTID allows the Exchange to identify and aggregate all electronic and manual trades during both the Regular Trading Hours and Extended Trading Hours sessions from that Customer for purposes of determining whether the Customer meets any of the various volume thresholds. The Customer has to provide its FTID to the Trading Permit Holder ("TPH") submitting that Customer's order to the Exchange (executing agent" or "executing TPH") and that executing TPH would have to enter the Customer's FTID on each of that Customer's orders.[7]

The Exchange notes that there are instances however, in which a Customer's FTID was not or could not be, affixed to an order. For example, an executing TPH may receive an order with multiple contra parties, including parties that are also customers with their own unique FTIDs. The executing TPH's front end system however, may only allow it to input only one FTID on the order. Thus the other Customers to the trade would not have their FTID represented at the time of submission. Additionally, an executing TPH's front end system may not yet allow for the input of an FTID on an order upon submission altogether. The Exchange also notes that it is possible that an executing TPH inadvertently enters an incorrect FTID number on an order. Accordingly, the Exchange is proposing to provide executing TPHs the ability to submit to the exchange a form (the "Frequent Trader Program—Volume Corrections Form" or "Form") that would provide a mechanism for executing TPHs to identify transactions to the Exchange that should have been, but were not, associated with particular FTIDs. More specifically, the executing TPH would identify on the form the "correct" FTID that should be associated with a specific transaction, so that such volume is properly counted towards the appropriate Customer's aggregated volume for purposes of determining what tier, if any, the customer meets. The Exchange notes that transactions identified on the Form will only be counted towards the identified Customer's volume if that Customer was already registered for the Frequent Trader Program prior to the time the transaction occurred (*e.g.*, if a customer trades 1,000 contracts the morning of April 1 and registers for the Frequent Trader Program the afternoon of April 1, that customer cannot have its executing TPH submit a form on its behalf for those 1,000 contracts executed prior to registration in the Program). The Exchange lastly proposes to provide that the Frequent Trader Program—Volume Corrections Form be submitted to the Exchange within 3 business days in order to ensure timely processing.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes providing executing TPHs the ability to submit to the exchange a form that identifies transactions that should have been, but were not, associated with particular FTIDs, removes impediments to and perfects the mechanism of a free and open market and a national market system, and protects investors and the public interest because there are a number of instances in which a Customer's FTID may not be affixed to a particular transaction at the time of execution even though the traded contracts, or a portion thereof, is actually associated with that Customer. The Exchange notes that providing a mechanism to "correct" FTIDs post-trade, helps ensure that a Customer's total volume at the end of the month accurately reflects their real trading volume, including volume from transactions that, upon submission of the order, did not reflect their FTID. The Exchange believes it's reasonable to provide that the Form be submitted within 3 business days in order to ensure timely processing and finality. The Exchange also believes it's reasonable, equitable and not unfairly discriminatory to provide that transactions identified on the Form will only be counted towards the identified Customer's volume if that Customer was already registered for the Frequent Trader Program because the Exchange does not wish to encourage or allow the Frequent Trader Program to be applied retroactively. Additionally, by establishing a clear process for identifying transactions in order for them to qualify for the Frequent Trader Program rebates, the proposed rule change eliminates confusion, thereby removing an impediment to and perfecting the mechanism of a free and open market system. The establishment of this process will also make it easier for CBOE to administer the Frequent Trader Program and ensure that it is appropriately assessed when it is applicable.

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[5] The Exchange initially filed the proposed change on April 4, 2016 (SR–CBOE–2016–035). On April 11, 2016, the Exchange withdrew that filing and replaced it with SR–CBOE–2016–037.

[6] *See* SR–CBOE–2016–023

[7] The Exchange notes that it is the responsibility of the Customer to request that the executing TPH affix its FTID to its order(s), and that it is voluntarily for the executing TPH to do so.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change applies uniformly to all executing TPHs of Customer FTID orders and because it provides for a clear process to rectify scenarios in which a Customer's FTID was not applied to that Customer's order. The Exchange believes that the proposed rule change will not cause an unnecessary burden on intermarket competition because it only applies to trading on CBOE. To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[13] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[14] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. Consistent with the protection of investors and the public interest, waiver of the 30-day operative delay will facilitate the implementation of the Frequent Trader Program and allow executing TPHs to use the Exchange's process to claim rebates for their customers. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2016–037 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2016–037. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2016–037, and should be submitted on or before May 17, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–09595 Filed 4–25–16; 8:45 am]

BILLING CODE 8011–01–P

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[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77662; File No. SR–NASDAQ–2016–051]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Nasdaq Rule 7014

April 20, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 4, 2016, The NASDAQ Stock Market LLC ("Nasdaq" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing changes to amend Nasdaq Rule 7014 to remove the Investor Support Program ("ISP"), to add the Small Cap Incentive Program ("SCIP"), and to amend both the Qualified Market Maker ("QMM") Program and the National Best Bid or Offer ("NBBO") Program.

The changes are being filed for immediate effectiveness and will become operative April 1, 2016.

The text of the proposed rule change is available at *nasdaq.cchwallstreet.com,* at Nasdaq's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Nasdaq Rule 7014 by removing the ISP, adding the SCIP, as well as amending both the QMM Program and the NBBO Program.

ISP

The Exchange proposes to eliminate the ISP from Nasdaq Rule 7014(a). The purpose of the ISP was to enable Nasdaq members to earn a monthly ISP credit for providing additional liquidity to Nasdaq and increasing the Nasdaq-traded volume of what are generally considered to be retail and institutional investor orders in exchange-traded securities ("targeted liquidity"). However, the Exchange has determined that the ISP no longer serves its intended purpose and that members are availing themselves of other programs. Specifically, changes to the QMM Program have in many circumstances made the ISP rebates obsolete.

The Exchange also proposes to amend Nasdaq Rule 7014 to remove ISP references throughout the rule.

SCIP

The Exchange proposes to add the SCIP as Nasdaq Rule 7014(a). The SCIP will be for Nasdaq market markers ("Nasdaq Market Makers")[3] registered in Nasdaq-listed companies with a market capitalization ("cap") of less than $100 million. The Exchange will update the Nasdaq-listed company symbols list[4] every six months via an Equity Trader Alert. The initial list is being created using data culled from the end of January 2016. However, the Exchange may remove symbols for companies that are delisted, halted for an extended period of time or for other listing-related matters at any time.

Nasdaq Market Makers registered in a SCIP symbol will receive an additional displayed liquidity rebate of $0.0005 per share executed for executions at or above $1.00 ("SCIP Rebate") if their percent of time at the NBBO is above 50% for the month ("NBBO Test"). The SCIP Rebate will be in addition to all other applicable displayed rebates.

For shares executed below $1.00, Nasdaq Market Makers will be subject to the following rates: (i) The rebate to add liquidity will be 0.10% (10 basis points) of the total dollar volume; and (ii) the fee to remove liquidity will be 0.25% (25 basis points) of the total dollar volume.

There will be no fee for quotes and orders executed in the Nasdaq Opening or Closing Cross (collectively, the "Nasdaq Crosses"), or any other cross (*e.g.,* trading halt, limit up-limit down) for Nasdaq Market Makers that meet the NBBO Test in SCIP symbols. Market-on-close and limit-on-close orders executed in the Nasdaq Closing Cross and market-on-open, limit-on-open, good-till-cancelled, and immediate-or-cancel orders executed in the Nasdaq Opening Cross are not eligible for the SCIP Rebate. These orders are considered "passive" orders in the Nasdaq Crosses or orders that are swept into the Nasdaq Crosses. All other orders are orders specifically designated to become active or execute in the cross and will receive the SCIP Rebate if they otherwise so qualify.

Impact of SCIP on the Tick Pilot

The SCIP will take effect on April 1, just prior to the April 4 effectiveness of the data collection phase of the Tick Pilot.[5] Nasdaq believes that the SCIP is fully consistent with both the effective operation and the important policy objectives of the Tick Pilot. Nasdaq actively supports the SEC's goal of studying the impact of nickel trading increments on the trading of small capitalization securities, including those that will benefit from the SCIP proposed here.

The SCIP will not disrupt researchers' ability to study the impact of nickel trading on small capitalization stocks. There are well-established statistical techniques that allow researchers to control for changes in conditions unrelated to the variable of interest, *i.e.,* changes in trading conditions unrelated to nickel trading increments. Statisticians use control variables and modeling techniques to control particularities and idiosyncrasies that are inherent to all observed data that stem from conditions exogenous to the variable of interest (nickel increments).

Apart from the SCIP, researchers will be required to control for macro events such as changes in interest rates, the imposition of a financial transaction tax, or a decrease in the taxation rate of capital gains. Researchers will also use these techniques to contend with changes in market conditions like high volatility and increased trading volumes driven by unpredictable isolated events or continuing conditions. Changes in Exchange pricing programs are no different from the changed conditions that economists normally expect to encounter in any study period, and future Tick Pilot researchers can deal with them effectively.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Nasdaq Rule 4612.

[4] *See http://www.nasdaqtrader.com/Trader.aspx?id=SCIPPilot.*

[5] On May 6, 2015, the Commission issued an order approving a Plan to Implement a Tick Size Pilot Program ("Plan"), as modified by the Commission, to be implemented within one year after the date of publication of the order for a two-year Pilot Period (the "Tick Pilot"). *See* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015). The start of the data collection is determined by the terms of the Plan.

In fact, the Tick Pilot study might be negatively impacted by attempts to hold trading conditions constant throughout the data collection phase. If the goal of the study is to understand the effect of nickel increments, it is important that the pilot occur under real world conditions. Holding prices constant would actually create artificial conditions rather than real world ones. Researchers will be required to take into account a wide variety of changes, price changes are no different. Conversely, maintaining artificial conditions throughout the study period would skew later research results, rendering them inapposite for application to the real world conditions that will be restored after the study period ends. Finally, Nasdaq notes that the impact of the SCIP should also be negligible because it is going in before the start of the Tick Pilot data collection period, so it will have no statistical impact.

QMM Program

Currently, under the QMM Program for a member to be designated as a QMM it must quote at the NBBO at least 25% of the time during regular market hours in an average of at least 1,000 securities per day during the month on a single market participant identifier (“MPID”). The Exchange proposes to modify this requirement to allow for the aggregation of all of a member's MPIDs to determine the number of securities for purposes of the 25% NBBO requirement.

Specifically, a firm currently must on a single MPID quote 1,000 distinct securities. The Exchange is proposing to allow each MPID a firm uses to count towards the 1,000 securities requirement. For example, if a member has four MPIDs and each MPID quotes in a single security at the NBBO for 30% of the time during regular market hours this will count as four of the required 1,000 securities. However, if a member has two MPIDs and one MPID quotes in a security at the NBBO for 15% of the time during regular market hours and the other MPID quotes in the same security for 20% of the time during regular market hours, that member would not be considered to have met the 25% NBBO requirement and neither security would count towards the 1,000 securities requirement.[6]

NBBO Program

The Exchange proposes to increase the NBBO Program credit in Nasdaq Rule 7014(g) from the $0.0002 to $0.0004 per share executed. This credit applies to New York Stock Exchange LLC (“NYSE”)—listed securities and in securities listed on exchanges other than Nasdaq and NYSE.

Definitions and Certifications

The Exchange also proposes to remove most of the definitions included under Nasdaq Rule 7014(h) and the Nasdaq Rule 7014(i) certification[7] because they are no longer applicable.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facilities which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”[10]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission*[11] (“NetCoalition”) the DC Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[12] As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’ play a role in determining the market data . . . to be made available to investors and at what cost.”[13]

Further, “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’. . . .”[14]

ISP

The Exchange believes that the proposed rule change to eliminate the ISP is reasonable because Nasdaq has determined that this program, which was intended to enable Nasdaq members to earn a monthly fee credit for providing targeted liquidity, no longer serves its intended purpose and that members can instead avail themselves of other potentially higher rebates such as those available in connection with the QMM Program.

The Exchange also believes that the elimination of the ISP is equitable and not unfairly discriminatory because its elimination will apply uniformly and it will no longer be available for any market participants. Furthermore, no members currently receive credits under the ISP so no members will be impacted by its elimination.

Also, the Exchange believes that eliminating references to the ISP throughout Nasdaq Rule 7014 is reasonable because it will lessen market participant confusion regarding the elimination of the ISP.

SCIP

The SCIP is intended to encourage Nasdaq Market Makers to improve market quality for Nasdaq-listed companies with market caps of under $100 million. Nasdaq believes that this program will benefit market participants and the market quality of the individual securities in the program.

The proposed rule change is to add the SCIP as Nasdaq Rule 7014(a).

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[6] Aggregation of MPIDs is used frequently by Nasdaq and other exchanges to assess whether a firm has, in its entirety, satisfied a volume-based threshold. *See* Nasdaq Rule 7018(a) and (d)(2); *see also* Preface to Phlx Pricing Schedule (Common Ownership Aggregation).

[7] Specifically, Nasdaq proposes to delete the definitions in Nasdaq Rule 7014(h)(1)–(4), 7014(h)(6), and 7014(h)(8), as well as the certification in Nasdaq Rule 7014(i).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] Securities Exchange Act Release No. 34–51808 (June 9, 2005) (“Regulation NMS Adopting Release”).

[11] *NetCoalition* v. *SEC* 615 F.3d 525 (D.C. Cir. 2010).

[12] *Id.* at 534–535.

[13] *Id.* at 537.

[14] *Id.* at 539 (quoting ArcaBook Order, 73 FR at 74782–74783).

Specifically, the SCIP will provide for an additional $0.0005 per share executed credit if a Nasdaq Market Maker satisfies the NBBO Test (as described previously). The SCIP Rebate will be in addition to all other applicable displayed rebates. Nasdaq believes that this credit is reasonable because the SCIP Rebate is material enough to incentivize market maker behavior to improve the markets in these securities. The Exchange also believes that the proposed credit is reasonable because it will serve as an effective incentive to Nasdaq Market Makers to provide more liquidity and align the program with improving the NBBO. Increasing such liquidity is reflective of the Exchange's desire to improve liquidity in Nasdaq small cap stocks.

The Exchange believes that the above proposed rule change is equitable and not unfairly discriminatory because the SCIP will apply uniformly to all similarly situated members. Nasdaq Market Members that elect to satisfy the NBBO Test will receive the SCIP Rebate. This credit is available to all members that are registered market makers on an equal basis and provides an additional credit for activity that improves the Exchange's market quality in small cap Nasdaq-listed symbols through increased activity at the NBBO. In this regard, the SCIP encourages higher levels of liquidity provision into the price discovery process and is consistent with the overall goals of enhancing market quality.

The SCIP also provides for a credit to Nasdaq Market Makers that add liquidity of 0.10% of the total dollar value for shares executed below $1.00, as well as a fee for Nasdaq Market Makers that add liquidity of 0.25% of the total dollar value for shares executed below $1.00. The Exchange believes that this credit and fee are reasonable because taken as a whole they should incentivize market maker behavior to improve the markets in these securities.

The Exchange believes that the proposed rule change above is equitable and not unfairly discriminatory because the Exchange will apply the same credit and fee uniformly and for all similarly situated members. Specifically, the above credit and fee are applicable to all Nasdaq Market Makers on an equal basis and the Exchange believes that, taken together, will overall encourage activity that improves the Exchange's market quality in small cap Nasdaq-listed symbols through increased activity at the NBBO. The credit is available to all members on an equal basis and provides an additional credit for activity that improves the Exchange's market quality through increased activity at the NBBO, while the fee will be applied uniformly for all Nasdaq Market Makers that elect to remove liquidity in shares executed under $1.00.

Additionally, Nasdaq believes it is reasonable that there will be no fee for all quotes and orders executed in the Nasdaq Crosses, or any other cross for Nasdaq Market Makers that meet the NBBO Test in SCIP symbols, because it is reflective of the Exchange's desire to provide further incentive to members to quote and execute orders in crosses that meet the NBBO Test in SCIP symbols. This is also reflective of the Exchange's goal to improve market quality through the use of reduced fees, as well as of the Exchange's efforts to incentivize market participants to improve market quality.

The Exchange believes that the above proposed rule change, as described above, is equitable and not unfairly discriminatory because the Exchange will uniformly assess no fee across all similarly situated members.

Additionally, Nasdaq believes that it is reasonable that all quotes and orders exclude market-on-close and limit-on-close orders executed in the Nasdaq Closing Cross and market-on-open, limit-on-open, good-till-cancelled, and immediate-or-cancel orders executed in the Nasdaq Opening Cross because these orders are considered "passive" orders in the Nasdaq Crosses (*i.e.,* orders that were swept into the Nasdaq Crosses). All other orders are orders specifically designated to become active or execute in the cross.

The Exchange also believes that this proposed rule change is equitable and not unfairly discriminatory because the exclusion of these quotes and passive orders from the Nasdaq Opening Cross and the Nasdaq Closing Cross, as specified above, will be applied uniformly across all similarly situated members.

The overall effect of the SCIP will be to encourage higher levels of liquidity provision into the price discovery process and is consistent with the overall goals of enhancing market quality.

QMM Program

Nasdaq believes that the proposed rule change to modify the QMM Program requirement to allow for the aggregation of all of a member's MPIDs to determine the number of securities for purposes of the 25% NBBO requirement is reasonable because it may increase the number of potential members than can qualify under the program. This, in turn, will improve Nasdaq market quality by rewarding members that provide significant market-improving order flow with a rebate.

The Exchange also believes the proposed rule change is equitable and not unfairly discriminatory because the easier to achieve amended qualification criteria for the QMM Program will apply uniformly to all similarly situated members and members that meet the qualification criteria will be eligible for the QMM rebate.

NBBO Program

The Exchange also believes that the proposed rule change to increase the NBBO Program credit in Nasdaq Rule 7014(g) from the $0.0002 to $0.0004 per share executed and which applies to NYSE—listed securities and in securities listed on exchanges other than Nasdaq and NYSE is reasonable because the increase to the credit although modest, is likely to incentivize more NBBO setting on Nasdaq and thus improve price formation on the Exchange.

The Exchange also believes the proposed rule change is equitable and not unfairly discriminatory because it is available to all members that qualify for this NBBO Program rebate.

Definitions and Certifications

The Exchange also believes that the proposed rule change to remove most of the definitions included under Nasdaq Rule 7014(h) and the Nasdaq Rule 7014(i) certification[15] are reasonable since they are no longer applicable. Keeping them in the rule book would only serve to potentially increase confusion for market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.[16] In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or credit opportunities available at other venues to be more favorable.

In such an environment, the Exchange must continually adjust its fees and credits to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

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[15] *See* note 7 above.

[16] 15 U.S.C. 78f(b)(8).

In this instance, the amendments to Nasdaq Rule 7014, which include the elimination of the ISP, the addition of the SCIP, as well as amendments to both the QMM Program and the NBBO Program, do not impose a burden on competition because the Exchange's execution services are voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. The Exchange believes that the competition among exchanges and other venues will help to drive price formation and overall execution quality higher for investors.

Rather than placing a burden on competition, the proposed changes to the programs included under Nasdaq Rule 7014, including to certain of the fees and rebates contained therein, are reflective of the fierce competition among market venues to attract order flow to the benefit of all market participants. Overall, the proposed changes to the incentive programs under Rule 7014 are designed to improve their effectiveness in achieving their stated purposes. If any of the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result.

In sum, if the rule change proposed herein is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[17] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2016–051 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2016–051. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2016–051, and should be submitted on or before May 17, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–09598 Filed 4–25–16; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14700]

Oregon Disaster #OR–00081 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Oregon, dated 04/19/2016.

Incident: Sinkhole and Landslide.

Incident Period: 12/17/2015 and continuing.

Effective Date: 04/19/2016.

EIDL Loan Application Deadline Date: 01/19/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Curry.
Contiguous Counties:
Oregon: Coos, Douglas, Josephine.
California: Del Norte.

The Interest Rates are:

	Percent
Businesses And Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for economic injury is 147000.

The States which received an EIDL Declaration # are Oregon, California.

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[17] 15 U.S.C. 78s(b)(3)(A)(ii).

[18] 17 CFR 200.30–3(a)(12).

(Catalog of Federal Domestic Assistance Number 59008)

Dated: April 19, 2016.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2016–09610 Filed 4–25–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14701 and #14702]

Mississippi Disaster #MS–00085

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Mississippi (FEMA–4268–DR), dated 04/19/2016.

Incident: Severe Storms and Flooding

Incident Period: 03/09/2016 through 03/29/2016

Effective Date: 04/19/2016

Physical Loan Application Deadline Date: 06/20/2016

Economic Injury (EIDL) Loan Application Deadline Date: 01/19/2017

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/19/2016, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Bolivar, Claiborne, Clarke, Coahoma, Covington, Forrest, Greene, Holmes, Jefferson Davis, Jones, Lamar, Leake, Leflore, Lincoln, Marion, Panola, Pearl River, Perry, Quitman, Sunflower, Tallahatchie, Tate, Tunica, Walthall, Washington, Wayne.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 147016 and for economic injury is 147026.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2016–09692 Filed 4–25–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Regulatory Fairness Hearing; Region I—Portland, Maine

AGENCY: U.S. Small Business Administration (SBA)

ACTION: Notice of open Hearing of Region I Small Business Owners to be held in Portland, Maine.

SUMMARY: The SBA, Office of the National Ombudsman is issuing this notice to announce the location, date and time of the Portland, Maine Regulatory Fairness Hearing. This hearing is open to the public.

DATES: The hearing will be held on Monday, May 16, 2016, from 1:00 p.m. to 4:00 p.m. (EST).

ADDRESSES: The hearing will be at The University of South Maine, Abromson Center, Room 213, Portland, Maine 04103.

SUPPLEMENTARY INFORMATION: Pursuant to the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121), Sec. 222, SBA announces the hearing for Small Business Owners, Business Organizations, Trade Associations, Chambers of Commerce and related organizations serving small business concerns to report experiences regarding unfair or excessive Federal regulatory enforcement issues affecting their members.

FOR FURTHER INFORMATION CONTACT: The hearing is open to the public; however, advance notice of attendance is requested. Anyone wishing to attend and/or testify at the Portland, Maine hearing must contact Elahe Zahirieh by May 12, 2016, in writing, by fax at (202) 481–5719 or email at *ombudsman@sba.gov.* For further information, please contact Elahe Zahirieh, Case Management Specialist, Office of the National Ombudsman, 409 3rd Street SW., Suite 330, Washington, DC 20416, by phone (202) 205–6499 and fax (202) 481–6062. Additionally, if you need accommodations because of a disability, translation services, or require additional information, please contact Elahe Zahirieh as well.

For more information on the Office of the National Ombudsman, see our Web site at *www.sba.gov/ombudsman.*

Dated: April 19, 2016.

Miguel J. L'Heureux,

SBA Committee Management Officer.

[FR Doc. 2016–09691 Filed 4–25–16; 8:45 am]

BILLING CODE P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice With Respect to List of Countries Denying Fair Market Opportunities for Government-Funded Airport Construction Projects

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Pursuant to section 533 of the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C. 50104), the United States Trade Representative (USTR) has determined not to list any countries as denying fair market opportunities for U.S. products, suppliers, or bidders in foreign government-funded airport construction projects.

Effective Date: April 26, 2016.

FOR FURTHER INFORMATION CONTACT: Scott Pietan, International Procurement Negotiator, Office of the United States Trade Representative, (202) 395–9646, or Arthur Tsao, Assistant General Counsel, Office of the United States Trade Representative, (202) 395–6987.

SUPPLEMENTARY INFORMATION: Section 533 of the Airport and Airway Improvement Act of 1982, as amended by section 115 of the Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223 (codified at 49 U.S.C. 50104) ("the Act"), requires the USTR to decide whether any foreign country has denied fair market opportunities to U.S. products, suppliers, or bidders in connection with airport construction projects of $500,000 or more that are funded in whole or in part by the government of such country. The list of such countries must be published in the **Federal Register**. The Office of the U.S. Trade Representative has not received any complaints or other information that indicates that U.S. products, suppliers, or bidders are being denied fair market opportunities in such airport construction projects. As a consequence, for purposes of the Act, the USTR has decided not to list any countries as denying fair market opportunities for U.S. products, suppliers, or bidders in foreign government-funded airport construction projects.

Michael B. G. Froman,

United States Trade Representative.

[FR Doc. 2016–09608 Filed 4–25–16; 8:45 am]

BILLING CODE 3290–F6–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Delegation of Authority

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of delegation of authority.

SUMMARY: The FAA is giving notice of a new delegation of authority from the Administrator to the Chief Counsel and to the Director of the Office of Adjudication regarding civil penalty actions under 14 CFR part 13 subpart G. The delegation was set forth in a memorandum signed by the Administrator dated March 28, 2016. The FAA is publishing the text of the delegation, so that it is available to interested parties. This delegation supersedes and replaces a previous delegation of authority by the Administrator by memorandum issued on October 27, 1992 and published in the **Federal Register** on December 9, 1992. 57 FR 58280; December 9, 1992.

FOR FURTHER INFORMATION CONTACT: Marie A. Collins, Dispute Resolution Officer and Administrative Judge for the Office of Adjudication (AGC–70), Federal Aviation Administration, 800 Independence Street, SW., Room 323, Washington, DC 20591; telephone (202) 267–3290; facsimile (202) 267–3720.

SUPPLEMENTARY INFORMATION: In civil penalty actions governed by the procedural rules in 14 CFR part 13, subpart G, the Administrator, acting as the FAA decisionmaker, is the official authorized to issue final agency decisions and orders. The Chief Counsel, the Assistant Chief Counsel for Litigation, and attorneys on his staff, have advised the Administrator, acting as FAA decisionmaker, regarding appeals from initial decisions in civil penalty actions under these procedural rules. By memorandum dated October 29, 1992, and published in the **Federal Register** on December 9, 1992, the Administrator delegated certain limited authority as the FAA decisionmaker in appeals in civil penalty cases to the Chief Counsel and the Assistant Chief Counsel, Litigation. Recently, when the Litigation Division was reorganized, the Assistant Chief Counsel for Litigation's authority to advise the Administrator regarding appeals from initial decisions was transferred to the Director of the Office of Adjudication. By memorandum dated March 28, 2016, the Administrator issued an updated delegation of authority to manage appeals in such civil penalty actions to the Chief Counsel and the Director of the Office of Adjudication.

The full text of the March 28, 2016 delegation from the Administrator to the Chief Counsel and to the Director of the Office of Adjudication provides: In furtherance of an efficient FAA civil penalty appeals process, pursuant to 49 U.S.C. 322(b) and 14 CFR part 13 subpart G, I hereby delegate authority to the Chief Counsel and to the Director of the Office of Adjudication as follows:

a. To administer civil penalty appeals, to appoint personnel of the Office of Adjudication to manage all or portions of individual appeals; and to prepare written decisions and proposed final orders in such appeals;

b. To issue procedural and other interlocutory orders aimed at proper and efficient case management, including, without limitation, scheduling and sanctions orders;

c. To grant or deny motions to dismiss appeals;

d. To dismiss appeals upon request of the appellant or by agreement of the parties;

e. To provide voluntary alternative dispute resolution (ADR) services prior to or during the pendency of appeals, upon request of the parties, in accordance with established Department of Transportation and FAA policies;

f. To stay decisions and orders of the FAA decisionmaker, pending judicial review or reconsideration by the FAA decisionmaker;

g. To summarily dismiss repetitious or frivolous petitions to reconsider or modify orders;

h. In matters subject to the Equal Access to Justice Act (EAJA), as implemented in CFR part 14, to execute and issue orders and final decisions on behalf of the Administrator on any EAJA applications;

i. To correct typographical, grammatical and similar errors in the FAA decisionmaker's decisions and orders, and to make non-substantive editorial changes;

j. To take all other reasonable steps deemed necessary and proper for the management of the civil penalty appeals process, in accordance with 14 CFR part 13 and applicable law.

k. The foregoing authority may be re-delegated, as necessary.

This Delegation supersedes and replaces the Delegation issued to the Chief Counsel and the Assistant Chief Counsel for Litigation, dated December 9, 1992 and the Re-delegation to the Adjudications Branch Manager, dated August 6, 1993.

Issued in Washington, DC, on March 28, 2016.

Michael Huerta,

Administrator.

[FR Doc. 2016–09656 Filed 4–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Membership in the National Parks Overflights Advisory Group Aviation Rulemaking Committee

AGENCY: Federal Aviation Administration, Transportation.

ACTION: Notice.

SUMMARY: By **Federal Register** notice (See 81 FR 290, January 5, 2016) the National Park Service (NPS) and the Federal Aviation Administration (FAA) invited interested persons to apply to fill two upcoming openings on the National Parks Overflights Advisory Group (NPOAG) Aviation Rulemaking Committee (ARC). The notice invited interested persons to apply to fill future openings to represent air tour operator concerns and environmental interests. This notice informs the public of the person selected to fill the air tour operator future vacancy. No selection has been made for the vacancy representing environmental interests so this notice also invites persons interested in serving on the ARC to apply for the upcoming opening for this seat.

DATES: Persons interested in applying for the one upcoming NPOAG opening representing environmental interests need to apply by June 10, 2016.

FOR FURTHER INFORMATION CONTACT: Keith Lusk, Special Programs Staff, Federal Aviation Administration, Western-Pacific Region Headquarters, P.O. Box 92007, Los Angeles, CA 90009–2007, telephone: (310) 725–3808, email: *Keith.Lusk@faa.gov.*,

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106–181, and subsequently amended in the FAA Modernization and Reform Act of 2012. The Act required the establishment of the advisory group within one year after its enactment. The NPOAG was established in March 2001. The advisory group is comprised of a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

In accordance with the Act, the advisory group provides "advice, information, and recommendations to the Administrator and the Director—

(1) On the implementation of this title [the Act] and the amendments made by this title;

(2) On commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) On other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) At the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands."

Membership

The current NPOAG ARC is made up of one member representing general aviation, three members representing the commercial air tour industry, four members representing environmental concerns, and two members representing Native American tribes. Current members of the NPOAG ARC are as follows:

Melissa Rudinger representing general aviation; Alan Stephen, Matt Zuccaro, and Mark Francis representing commercial air tour operators; Mark Belles, Nicholas Miller, Michael Sutton, and Dick Hingson representing environmental concerns; and Leigh Kuwanwisiwma and Martin Begaye representing Native American tribes. The 3-year membership terms of Mr. Francis, and Mr. Sutton expire on May 19, 2016.

Selection

The person selected to fill the upcoming open seat representing air tour operator concerns is Mark Francis. Mr. Francis is a current member and will serve another term. His 3-year term will begin on May 20, 2016. No persons expressed interest in filling the other upcoming opening to represent environmental concerns. Therefor the FAA and NPS, through this notice, are soliciting interest for the environmental opening.

The FAA and NPS invite persons interested in serving on the ARC to contact Mr. Keith Lusk (contact information is written above in **FOR FURTHER INFORMATION CONTACT**). Requests to serve on the ARC must be made to Mr. Lusk in writing and postmarked or emailed on or before June 10, 2016. The request should indicate whether or not you are a member of an association or group related to environmental concerns or have another affiliation with issues relating to aircraft flights over national parks. The request should also state what expertise you would bring to the NPOAG ARC as related to issues and concerns with aircraft flights over national parks. The term of service for NPOAG ARC members is 3 years. Current members may re-apply for another term.

On June 18, 2010, President Obama signed a Presidential Memorandum directing agencies in the Executive Branch not to appoint or re-appoint federally registered lobbyists to advisory committees and other boards and commissions. Therefore, before appointing an applicant to serve on the NPOAG, the FAA and NPS will require the prospective candidate to certify that they are not a federally registered lobbyist.

Issued in Hawthorne, CA on April 20, 2016.

Keith Lusk

Program Manager, Special Programs Staff, Western-Pacific Region.

[FR Doc. 2016–09690 Filed 4–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Aviation Maintenance Technical Schools

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information collected is needed to determine applicant eligibility and compliance for certification of Civil Aviation mechanics and operation of aviation mechanic schools.

DATES: Written comments should be submitted by May 26, 2016.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0040.

Title: Aviation Maintenance Technical Schools.

Form Numbers: FAA Form 8310–6.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on February 4, 2016 (81 FR 6099). The collection of information is necessary to ensure that Aviation Maintenance Technician Schools meet the minimum requirements for procedures and curriculum set forth by the FAA in FAR part 147. Applicants submit FAA Form

8310–6, Aviation Maintenance Technician School certificate and Ratings Application, to the appropriate FAA district office for review. If the application (including supporting documentation) is satisfactory, an on-site inspection is conducted. When all FAR part 147 requirements have been met, an aviation maintenance technician school certificate with appropriate ratings is issued.

Respondents: Approximately 174 representatives of aviation maintenance technical schools.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 3.17 hours.

Estimated Total Annual Burden: 66,134 hours.

Issued in Washington, DC, on April 20, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2016–09696 Filed 4–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Human Space Flight Requirements for Crew and Space Flight Participants

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The FAA uses the information collected related to public safety to ensure that a launch or reentry operation involving a human on board a vehicle will meet the risk criteria and requirements with regard to ensuring public safety.

DATES: Written comments should be submitted by May 26, 2016.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0720.

Title: Human Space Flight Requirements for Crew and Space Flight Participants.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on February 4, 2016 (81 FR 6097). The FAA has established requirements for human space flight of crew and space flight participants as required by the Commercial Space Launch Amendments Act of 2004. The information collected is used by the FAA, a licensee or permittee, a space flight participant, or a crew member. The FAA uses the information related to public safety to ensure that a launch or reentry operation involving a human on board a vehicle will meet the risk criteria and requirements with regard to ensuring public safety.

Respondents: Approximately 5 applicants annually.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 4 hours.

Estimated Total Annual Burden: 2,975 hours.

Issued in Washington, DC, on April 20, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2016–09693 Filed 4–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. DOT–NHTSA–2016–0050]

Notice and Request for Comments

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on December 4, 2015 (80 FR 75894). No comments were received.

DATES: Comments must be submitted on or before May 26, 2016.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Walter Culbreath, NIO–300, National Highway Traffic Safety Administration, Room W51–316, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

Mr. Culbreath's telephone number is (202) 366–1566. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION:

Title: 23 CFR Parts Uniform Safety Program Cost Summary Form for Highway Safety Plan.

OMB Control Number: 2127–0003.

Type of Request: Extension of a previously approved information collection.

Abstract: Each State shall have a highway safety program approved by the Secretary, designed to reduce traffic accidents and deaths, injuries, and property damage resulting there from. Such program shall be in accordance with uniform guidelines promulgated by the Secretary to improve driver performance, and to improve pedestrian performance, motorcycle safety and bicycle safety. Under this program, States submit the Highway Safety Program and other documentation explaining how they intend to use the grant funds. In order to account for funds expended under these priority areas and other program areas, States are required to submit a Program Cost Summary. The Program Cost Summary is completed to reflect the State's proposed Allocation of funds (including carry-forward funds) by program area, based on the projects and activities identified in the Highway Safety Plan

Affected Public: State, Local, or Tribal Government.

Estimated Number of Respondents: 57.

Frequency: 20 per year.

Number of Responses: 1,140.

Estimated Total Annual Burden hours: 570 hours.

Estimated Total Annual Cost Burden: 0.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Kevin Mahoney,

Director, Office of Corporate Customer Services.

[FR Doc. 2016–09648 Filed 4–25–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0005]

Pipeline Safety: Public Workshop on Liquefied Natural Gas Regulations

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice is announcing a public meeting to solicit input and obtain background information for the formulation of a future regulatory change to 49 CFR part 193, Liquefied Natural Gas Facilities: Federal Safety Standards. PHMSA is co-sponsoring a two-day Liquefied Natural Gas (LNG) Workshop with the National Association of Pipeline Safety Representatives. PHMSA will also describe requirements for transporting LNG in commerce by rail, highway, and waterway, as authorized in the Federal Hazardous Materials Regulations in 49 CFR parts 100–185. This workshop will bring federal and state regulators, emergency responders, NFPA 59A technical committee members, industry, and interested members of the public together to participate in shaping a future LNG rule.

DATES: The public workshop will be held on May 18–19, 2016. Name badge pick up and on-site registration will be available starting at 7:00 a.m., with the workshop taking place from 8:30 a.m. until approximately 4:30 p.m. eastern time.

ADDRESSES: The workshop will be held at the U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Washington, DC 20590 in the atrium of the west building (New Jersey Avenue entrance, across the street from the Navy Yard Metro station). Attendees should arrive early to allow for time to go through security. Directions to DOT are located at *https://www.transportation.gov/directions.*

Online preregistration for the workshop is available until May 11, 2016. Refer to the meeting Web site for the latest information about the meeting including agenda and the webcast at *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=111* Presentations and a recording of proceedings will be available within 30 days after the event.

Registration: Members of the public may attend this free workshop. To help assure that adequate space is provided, attendees, both in person and by webcast, should register in advance at the PHMSA public meeting Web site at *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=111* Onsite registration will also be available for those attending in person.

Important: Please be sure all representatives who plan to attend are registered. If you do not register for this meeting in advance, your entrance into the building may be delayed due to security processing. To enter the facility, all U.S. citizen visitors must have a valid U.S. or state government issued photo identification (driver's license, passport, etc.). If you do not have valid photo identification, you will not be permitted to enter the facility.

DOT is a secure U.S. Government building. All visitors and any items brought into the facility will be required to go through security screening each time they enter the building. **NOTE:** Screening luggage takes additional time at the entry checkpoint. If possible, please avoid bringing luggage.

If you are a non-U.S. citizen/foreign national and will be attending the meeting in person, please contact *Janice.Morgan.CTR@dot.gov* or 202–366–2392 to provide the following information: full name, official title or position, date of birth, country of citizenship, passport number or diplomatic identification number, and passport expiration date. Guest information is required at least five business days in advance of the meeting.

Comments: Members of the public may submit written comments either before or after the workshop. Comments should reference Docket No. PHMSA–2016–0005. Comments may be submitted in the following ways:

- *E-Gov Web site: http://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System, U.S. Department of Transportation,1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590.

Hand Delivery: DOT Docket Management System, Room W12–140, on the ground floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the docket number (PHMSA–2016–0005) at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA has received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.*

Note: Comments will be posted without changes or edits to *http://www.regulations.gov* including any personal information provided. Please see the Privacy Act Statement below for additional information.

Privacy Act Statement

Anyone may search the electronic form of all comments received for any of our dockets. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19476) or visit *http://dms.dot.gov.*

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, please contact Mrs. Julie Halliday, Engineering and Research Division, at 202–366–0287 or *Julie.Halliday@dot.gov.*

FOR FURTHER INFORMATION CONTACT: Julie Halliday, Engineering and Research Division, at 202–366–0287 or *Julie.Halliday@dot.gov* about the subject matter in this notice.

SUPPLEMENTARY INFORMATION:

The Pipeline Safety Act codified in 49 U.S.C. 60101, *et seq.,* directs DOT to establish and enforce safety standards for LNG facilities. While there are exceptions, generally an onshore LNG plant is regulated in CFR part 193 if the plant either receives from or delivers natural gas to a pipeline regulated in 49 CFR part 192.

The regulations in Part 193 were first promulgated in the 1970's, when the majority of LNG plants were built by natural gas pipeline operators for "peak shaving" or storage for injection back into natural gas pipelines to meet peak winter demand. Since that time, the LNG industry has made technological, fabrication, material, and material testing advancements. The field of process safety has also evolved.

The abundant natural gas supply in the U.S. and national and international demand for LNG is spurring development of new LNG plants. Large marine export plants are being constructed to export LNG due to the abundance of domestic natural gas. These plants store and transfer much greater quantities of LNG and other heavy hydrocarbons. Smaller LNG plants are being constructed to produce LNG as an alternative fuel to gasoline and diesel. Because LNG is a cleaner, efficient, and lightweight fuel compared to other fossil fuels, it can substitute for traditional oil-based fuels for trucking, vessels, rail, drilling equipment, decentralized power generation, and process industry. Some new smaller scale LNG applications, such as marine bunkering, seek to locate at or near sites where diesel or other fueling occurs today. These locations may be in close proximity to other existing infrastructure and to an area that is used for outdoor assembly of groups of 50 or more persons—which is currently not allowed within a thermal exclusion zone.

As a new LNG industry is emerging, the existing LNG infrastructure is aging. Failures at new plants can occur due to unforeseen complications of new technology and design and construction issues, while older systems are vulnerable to risks from obsolescence, and aging, equipment and systems. PHMSA is considering updates to Part 193 to reflect advances in technologies, design, construction, materials, material testing, and to address risks associated with new and aging facilities.

The workshop is an opportunity to review and consider incorporating newer editions of the NFPA 59A and other technical standards that allow or require the use of new technologies, materials, and practices to enhance safety, and also to work with stakeholders to resolve issues that may prevent the incorporation of the latest edition of those standards. Part 193 significantly incorporates by reference the 2001 edition of the National Fire Protection Association (NFPA) 59A technical standard. In 2010, PHMSA incorporated by reference a few sections of the 2006 edition of NFPA 59A.

The LNG market is evolving due to the abundance of natural gas, stricter emissions regulations, new technologies, and new applications for the use of LNG. Also, the majority of LNG plants in service today were constructed in the 1970's and that existing regulations may not adequately incorporate risk-based assessments, process safety practices, and technologies that have developed over this time period. Additionally, newer editions of technical standards incorporated by reference in Part 193 have been issued since the last time the regulation was updated.

This workshop is also a forum for PHMSA to collect input regarding challenges operators face locating, designing, fabricating, constructing, replacing, or upgrading facilities due to regulations that may not address these changes or due to the incorporation of older versions of technical standards in Part 193. PHMSA seeks to gain information on best practices for process safety. PHMSA also seeks input from the public and emergency responders regarding education, awareness, and training about LNG safety. Finally, PHMSA will also describe requirements for transporting LNG in commerce by rail, highway, and waterway, as authorized in Federal Hazardous Materials Regulations Title 49 CFR parts 100–185.

Issued in Washington, DC, on April 20, 2016, under authority delegated in 49 CFR 1.97.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2016–09653 Filed 4–25–16; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Information Collection; Comment Request; Reduction of Permanent Capital Notice

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a new information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning a new information collection titled "Reduction of Permanent Capital Notice."

DATES: Comments must be received by June 27, 2016.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–NEW, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326, or by electronic mail to *prainfo@occ.treas.gov.*

You may inspect and photocopy comments in person at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to a security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, at (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information that they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the proposed collection of information set forth in this document.

Description: Under 12 CFR 5.55, the OCC will review the information submitted by a Federal saving association in its application or notice requesting approval to issue a capital distribution to determine whether the Federal savings association's request is in accordance with existing statutory and regulatory criteria. In addition, the information provides the OCC with a mechanism for monitoring reductions in capital since these distributions may place the Federal savings association at risk.

Title of Collection: Reduction of Permanent Capital Notice.

OMB Control Number: 1557–NEW.

Type of Review: New collection.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 2.

Estimated Frequency of Response: On occasion.

Estimated Total Burden: 40 minutes.

Comments: We will summarize the comments that we receive and include them in our request for OMB approval. All comments will become a matter of public record. Comments are solicited on:

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the OCC;

(b) The accuracy of OCC's estimate of the burden of the proposed information collection;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collection on respondents, including through the use of information technology.

Dated: April 21, 2016.

Mary Hoyle Gottlieb,

Regulatory Specialist, Legislative and Regulatory Activities Division.

[FR Doc. 2016–09731 Filed 4–25–16; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Action Pursuant to Executive Order 13726 of April 19, 2016, "Blocking Property and Suspending Entry Into the United States of Persons Contributing to the Situation in Libya"

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of one individual whose property and interests in property are blocked pursuant to Executive Order 13726 of April 19, 2016, "Blocking Property and Suspending Entry into the United States of Persons Contributing to the Situation in Libya," and whose name has been added to OFAC's list of Specially Designated Nationals and Blocked Persons (SDN List).

DATES: OFAC's actions described in this notice were effective April 19, 2016.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Notice of OFAC Actions

On April 19, 2016, OFAC blocked the property and interests in property of the following individual pursuant to Executive Order 13726 of April 19, 2016, "Blocking Property and Suspending Entry into the United States of Persons Contributing to the Situation in Libya":

GHAWIL, Khalifa Mohamed Ahmed (a.k.a. AL-GHUWAYL, Khalifah; a.k.a. AL-GHWEIL, Khalifa; a.k.a. GHWELL, Khalifa), Kaser Ahmet Street, Ras Al Sayah District, Misurata, Libya; DOB 01 Jan 1956; POB Misurata, Libya; nationality Libya; Passport A005465 (Libya) issued 12 Apr 2015 expires 11 Apr 2017; Prime Minister and Defense Minister of the National Salvation Government (individual) [LIBYA3].

Dated: April 21, 2016.

John Battle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2016–09684 Filed 4–25–16; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5558

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is

soliciting comments concerning Form 5558, Application for Extension of Time To File Certain Employee Plan Returns.

DATES: Written comments should be received on or before June 27, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Sara Covington, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Extension of Time To File Certain Employee Plan Returns.

OMB Number: 1545–0212.

Form Number: 5558.

Abstract: This form is used by employers to request an extension of time to file the employee plan annual information return/report (Form 5500 series) or the employee plan excise tax return (Form 5330). The data supplied on Form 5558 is used to determine if such extension of time is warranted.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 466,700.

Estimated Time per Response: 24 minutes.

Estimated Total Annual Burden Hours: 183,273.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 20, 2016.

Sara Covington,

IRS Tax Analyst.

[FR Doc. 2016–09675 Filed 4–25–16; 8:45 am]

BILLING CODE 4830–01–P

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

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